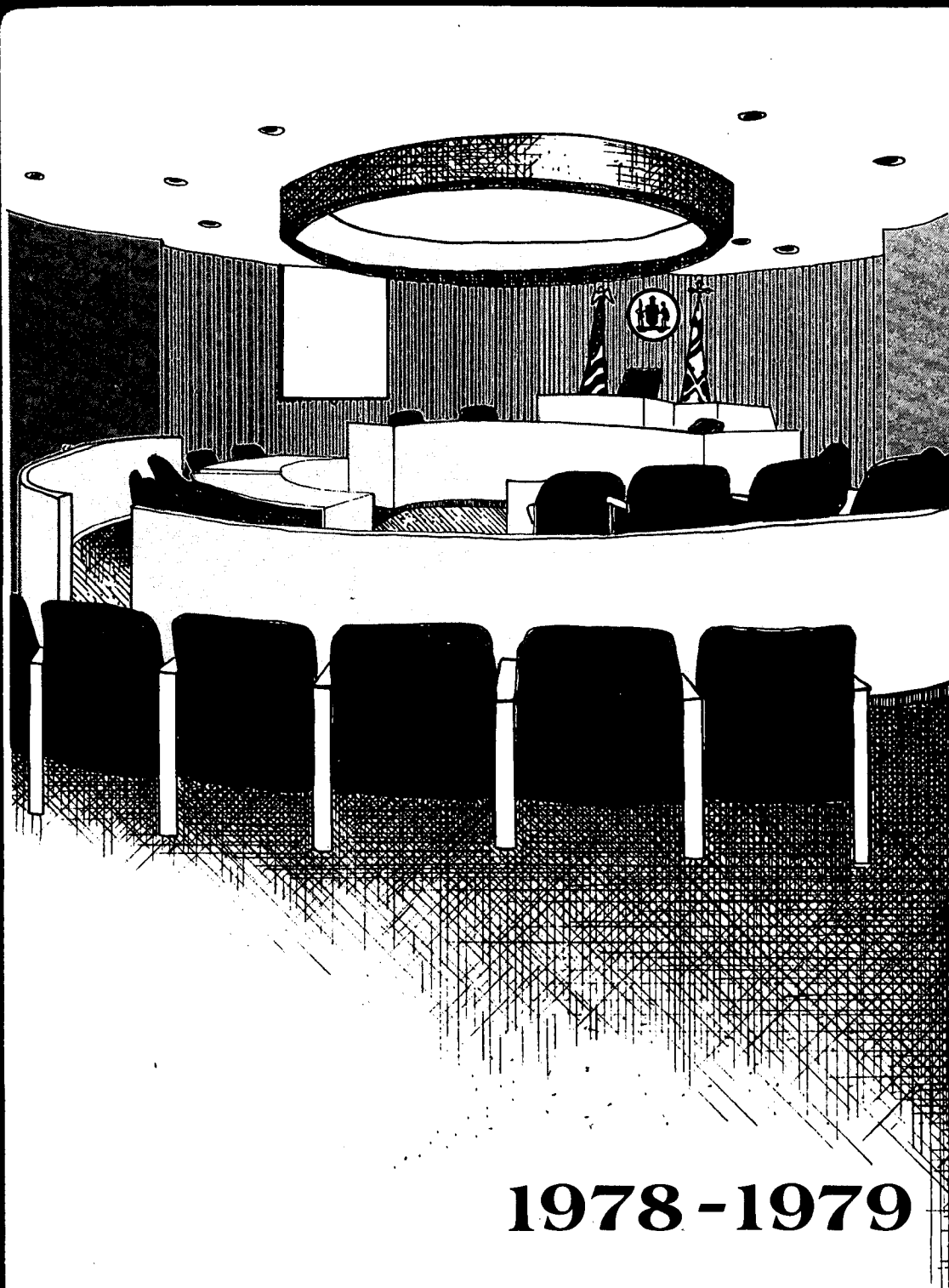


THE ANNUAL REPORT of the

MARYLAND JUDICIARY



1978-1979

COURT LIBRARY CIRCUIT COURT
PRINCE GEORGE'S COUNTY
UPPER MARIPOSA, MARYLAND

BARBARA DODGE 1979

Annual Report of the Maryland Judiciary

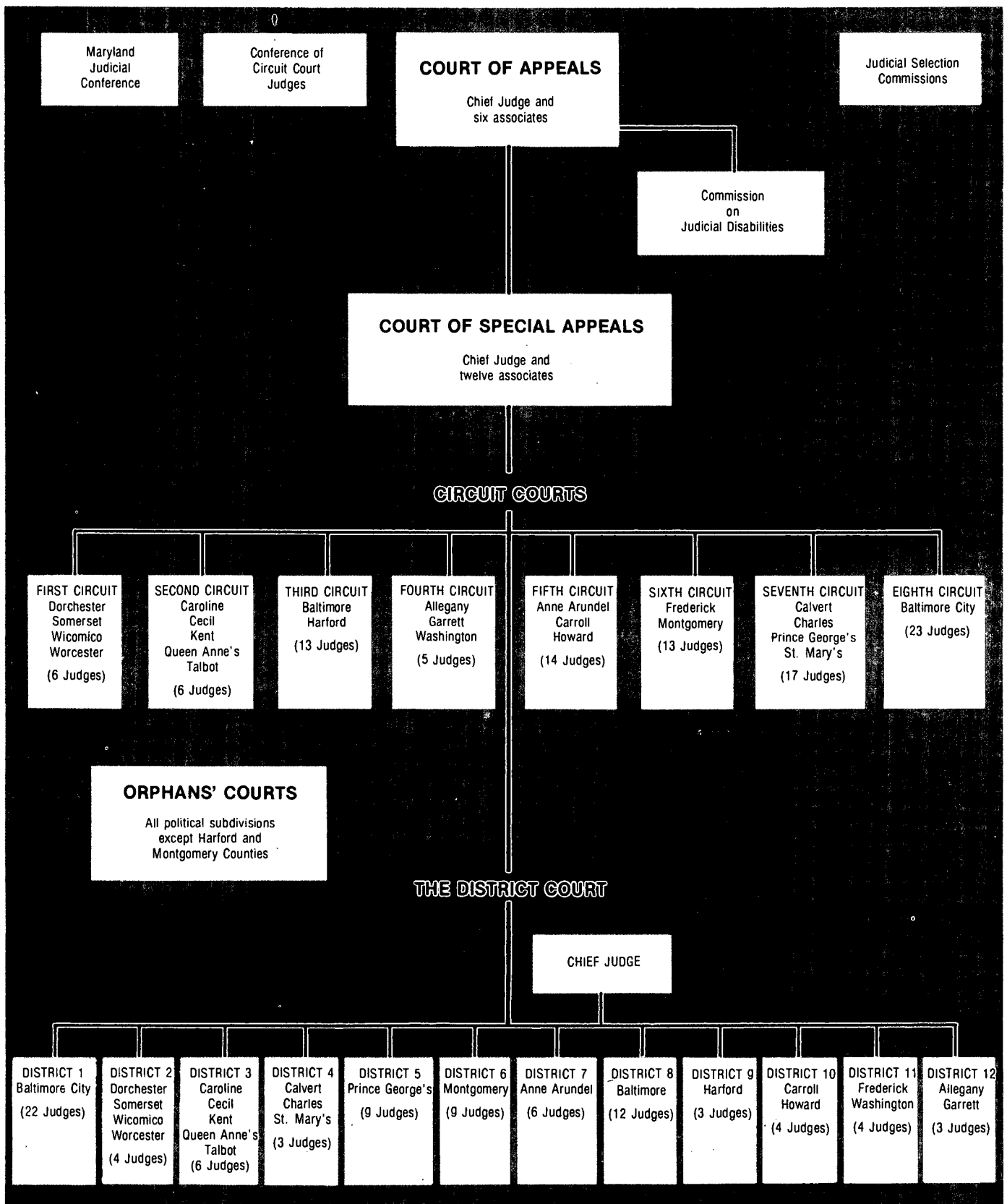
1978-1979

Report edited by:
Deborah Unitus Berezna
Robert C. Franke

Contents

Preface	iii	Board of Law Examiners.....	18
Introduction	iv	Rules Committee.....	19
Judicial Revenues and Expenditures.....	1	Attorney Grievance Commission.....	19
The Evolution of the Court of Appeals of Maryland.....	3	Clients' Security Trust Fund.....	20
The Maryland Courts.....	4	Judicial Conferences.....	21
The Court of Appeals.....	4	The Maryland Judicial Conference.....	21
The Court of Special Appeals.....	5	Conference of Circuit Court Judges.....	22
The Circuit Courts.....	5	Appointment, Discipline and Removal of Judges.....	24
The District Court.....	8	Eligibility and Appointment.....	24
Judicial Administration.....	10	Judicial Nominating Commissions.....	24
Administrative Office of the Courts.....	10	Removal and Discipline of Judges.....	25
Circuit Court Administration.....	13	The Commission on Judicial Disabilities....	26
District Court Administration.....	14	State of the Judiciary Message.....	27
Assignment of Judges.....	16	Mini Report on the State of the Maryland Judiciary.....	32
Programs and Developments.....	17	1979 Legislation Affecting the Courts.....	36
Court Related Units.....	18	Judicial Maps and Members of the Judiciary....	38
State Law Library.....	18		

THE MARYLAND JUDICIAL SYSTEM



Preface

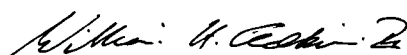
This third Annual Report of the Maryland Judiciary includes the twenty-fourth annual report of the Administrative Office of the Courts, as required by §13-101 (d)(9) of the Courts Article. The Report covers Fiscal 1979, beginning with July 1, 1978, and ending June 30, 1979.

As in preceding years, the Report is in two volumes. Volume 1 is designed for the general reader; it treats the funding, functions, workload, and programs of the court system in an overview fashion, highlighted by graphs, charts, and photographs. We hope that this volume will be widely circulated not only to those in government, but to citizens of the State interested in Maryland's judicial system.

Volume 2 is a statistical abstract in which the analyst or student will find data supporting the material contained in Volume 1 as well as considerable other information pertaining to the Maryland courts. These data are perhaps of more interest to those who administer the court system or wish to examine its functions in depth.

Many individuals have contributed materials for this Report. They include judges; staff of the Administrative Office of the Courts, the appellate courts, and District Court Headquarters; circuit and local administrators; and others who play important parts in the operations of the judicial branch of government in Maryland. There is, however, one group of contributors to which I would like to pay special tribute. This group consists of the clerks of the circuit courts for the counties and the clerks of the courts of the Supreme Bench of Baltimore City. Their extensive efforts and continuing cooperation in furnishing statistical information furnish the foundation for sound court management in this State as well as the material from which the bulk of this Report is constructed. It is literally true that without their support, there would be no Report. I take this opportunity of publicly acknowledging their invaluable assistance.

We hope that these materials will contribute to enhanced general understanding of the operations and role of the Judicial Department of Maryland.



William H. Adkins, II
State Court Administrator

In Maryland, as in many other states, the Judicial Department of government is probably that one of the three co-equal branches least well understood by the citizens it serves. This *Annual Report of the Maryland Judiciary* for the period July 1, 1978 - June 30, 1979, like its predecessors, is a major part of our continuing efforts to explain to the public the work of the judiciary, as well as its structure, needs, and goals.

The Report depicts a judicial system striving hard to cope with massive caseloads effectively and efficiently while at the same time never losing sight of the principal goal of any court system: the administration of justice in each individual case presented to the courts.

Also present amidst the mass of data presented in the two volumes of this Report are concerns that must be addressed in the future if the Judicial Department is to continue to perform its duties well. In many instances, the solutions to these concerns require assistance from the other branches of government, as well as citizen support. Some of them are:

- The need to cope with the heavy criminal caseload by streamlining criminal procedures while not reducing the due process that is owed each litigant in our courts, and while facilitating the movement of civil cases.

- The need to improve court structure to assist in court administration, particularly with reference to the organization of the Supreme Bench of Baltimore City.

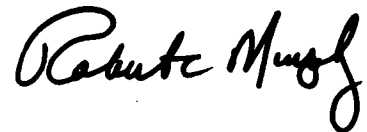
- The need to improve methods of judicial selection to facilitate the recruitment of high quality lawyers to the bench.

- The need to assure adequate compensation for judges and a rational and equitable personnel system for non-judicial employees.

- The need to continue to work to improve jury management procedures, in order to reduce the burdens of jury service for the citizens who are called to perform this important function.

- The need to provide adequate funding for the court system as a whole in order to provide the judges, support personnel, and physical facilities essential to the prompt and fair administration of justice. This last consideration also requires that attention be given to the fundamental policy issue of the relative portion of court funding that should be borne by the State on the one hand and the political subdivisions on the other.

It is my hope that the readers of this Report will be assisted in their understanding of the Judicial Department by the historical data and analyses displayed, and will also be persuaded to give thoughtful consideration to some of the policy issues I have outlined.



Robert C. Murphy
Chief Judge of the Court
of Appeals of Maryland

Judicial Revenues and Expenditures

State and local appropriations approximating \$53 million supported the operation of the judicial branch of government in Maryland during fiscal 1978-1979. The judicial branch consists of the Court of Appeals; the Court of Special Appeals; the circuit courts for the counties and the six courts comprising the Supreme Bench of Baltimore City; and the District Court of Maryland. Related agencies and units consist of the clerks' offices of the two appellate courts, clerks' offices of the circuit courts, Administrative Office of the Courts including the juvenile court clerk's office in Baltimore City, State Board of Law Examiners, Standing Committee on Rules of Practice Procedure of the Court of Appeals, Maryland State Law Library, Commission on Judicial Disabilities, Clients' Security Trust Fund, and Attorney Grievance Commission. There are 203 judicial positions and approximately 2600 non-judicial positions in the judicial branch.

The state-funded portion of the Judicial Budget operates on a program budget concept and \$25,399,673 was expended by eight programs in the twelve month period ending June 30, 1979. Two programs fund the two appellate courts and their clerks' offices. One provides funds to pay the

salaries and official travel costs of the circuit court judges. The largest program is the State-funded District Court which expended \$17,042,342 in Fiscal 1979, 67 percent of the total. The Maryland Judicial Conference program includes funds for continuing judicial education programs and conference committee activities. The Administrative Office of the Courts program expended \$1,733,105, about 7 percent of the total. Included within the Administrative Office's program are funds to operate the clerk's office of the juvenile court in Baltimore City and funds to support an automated case scheduling system for the Criminal Court of Baltimore. The remaining programs provide funds to support the activities of the State Board of Law Examiners, Standing Committee on Rules of Practice and Procedure of the Court of Appeals, the State Reporter, the Commission on Judicial Disabilities and the Maryland State Law Library. The Attorney Grievance Commission and the Clients' Security Trust Fund are supported by Assessments against lawyers entitled to practice law in Maryland. These funds are not included in the judicial budget.

The figures in the table below reflect the growth of the State-funded portion of the judicial budget for

STATE FUNDED JUDICIAL BUDGET

EXPENDITURES

Program	Actual FY 1977	Actual FY 1978	Actual FY 1979
Court of Appeals	\$ 684,358	\$ 722,653	\$ 749,270
Court of Special Appeals	1,121,917	1,250,847	1,280,820
Circuit Courts & Supreme Bench	3,375,986	3,683,128	3,982,575
District Court	14,463,399	15,650,444	17,042,342
Maryland Judicial Conference	28,911	36,748	38,448
Administrative Office of the Courts	1,329,669	1,676,039	1,733,105
Court Related Agencies	125,914	376,213	419,156
Maryland State Law Library	--	--	153,957
TOTAL	\$21,130,154	\$23,396,072	\$25,399,673

REVENUES

Program	Actual FY 1977	Actual FY 1978	Actual FY 1979
Court of Appeals	\$ 23,051	\$ 24,115	\$ 22,371
Court of Special Appeals	29,375	31,725	31,478
State Board of Law Examiners	117,600	113,555	131,200
District Court	22,462,374	23,917,344	23,223,268*
TOTAL	\$22,632,400	\$24,086,739	\$23,408,317

*In Fiscal Year 1979, the District Court expended \$1,163,443 in payments to various sheriffs for serving process. No funds were appropriated for this expenditure and were charged directly against revenues.

Fiscal Years 1977-1979, which rose an average of 10 percent each year. Actual revenues are given also to show how they have kept pace with expenditures. In this same period, the entire State budget rose from approximately 3.5 billion in Fiscal 1977 to approximately 4.3 billion in Fiscal 1979 for an average growth of slightly over 10 percent in each year.

As can be seen from the illustration of the State "budget dollar", the State-funded Judicial Budget continues to consume only a tiny fraction of the total State Budget approximating six-tenths of one percent.

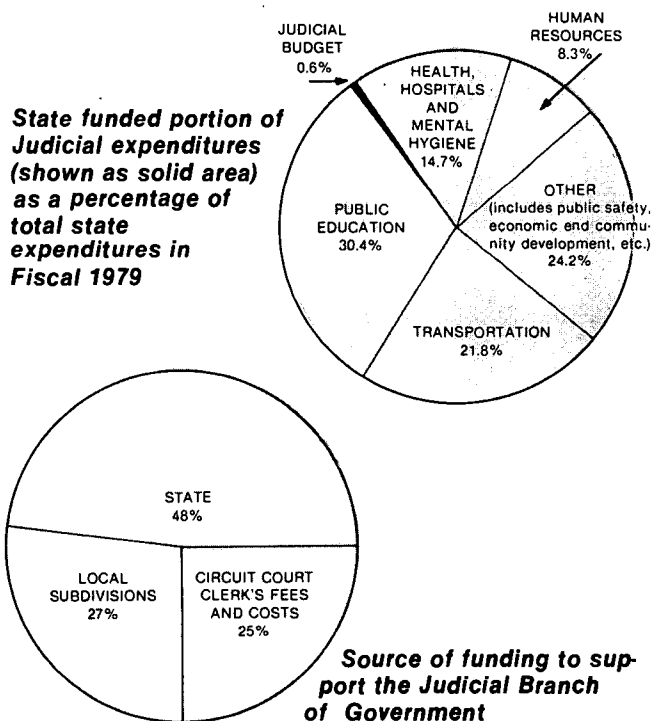
Operating costs for the clerks' offices of the circuit courts for the counties and the courts of the Supreme Bench of Baltimore City are paid from filing fees, court costs, and commissions collected by these offices, with any deficiency paid by the State from a fund maintained by the State Comptroller. In Fiscal 1979 expenses approximated \$13.3 million while the fees, costs and commissions collected and retained approximated \$13.1 million with a result that a deficiency of about \$200,000 was paid to these offices by the Comptroller with State funds.

With the exception of circuit court judges' salaries, their fringe benefits and official travel expenses, costs to operate the elected circuit court clerks' offices and certain local expenses paid by the State through the Administrative Office of the Courts, all other costs to support the circuit/Supreme Bench Courts are borne by Maryland's twenty-three Counties and Baltimore City. In Fiscal

1979 costs to the political subdivisions approximated \$14.6 million. Court related revenues collected by the Circuit Courts from sources other than fines, forfeitures and appearance fees approximated \$1 million. These monies come from such sources as fees and charges in domestic relation matters and incentive payments by the Federal Government under the Aid to Families with Dependent Children Program. Fines, forfeitures, appearance fees (remitted for Bar Library purposes) and some court costs collected by the clerks' offices and remitted to the subdivisions approximated \$1 million.

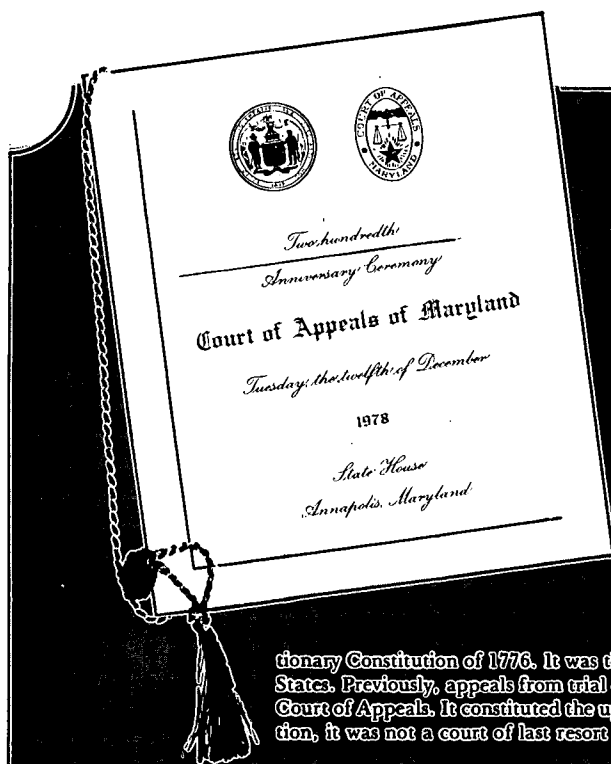
The chart illustrating the contribution by the State, clerks' offices and political subdivisions to support the judicial branch shows that the State-funded portion accounts for approximately 48 percent of all costs while the clerks' offices and the local subdivision expenses account for 25 percent and 27 percent respectively.

The growth of the State-funded judicial budget from 1977-1979 is due to many factors including but not limited to normal and inflationary increases in operating expenses, incremental pay increases, salary adjustments given to all State employees, assumption of federal grants, additional non-judicial personnel, legislation creating one appellate, 5 circuit and 3 District Court judgeships, transfer of the Maryland State Library from the executive branch to the judicial branch, and adoption or expansion of programs to support the work of the trial courts.



Judicial Branch Personnel in Profile 1978-1979

Judicial Personnel	203
Non-Judicial Personnel	
Appellate Courts	67
District Court	832
Administrative Office of the Courts (36 In juvenile court clerk's office in Baltimore)	63
Court Related Agencies (Includes staff to the State Board of Law Examiners, Standing Committee on Rules of Practice and Procedure, State Law Library, Attorney Grievance Commission)	33
Clerks' Offices — Circuit Courts	888
Circuit Courts — Local	725
	<u>2,811</u>



On December 12, 1978, the 200th anniversary of the Court of Appeals of Maryland was celebrated in a ceremony at the State House in Annapolis. The Chief Justice of the U.S. Supreme Court, the Honorable Warren E. Burger, was among the many dignitaries present and addressed the gathering. In honor of the occasion the following was written by H.H. Walker Lewis, Esquire of the Baltimore Bar.

The Evolution of the Court of Appeals of Maryland

Our present Court of Appeals was fathered by the revolutionary Constitution of 1776. It was the first true court of last resort in Maryland, and one of the oldest in the United States. Previously, appeals from trial courts had run to the Governor's Council which was styled in such matters as the Court of Appeals. It constituted the upper house of the General Assembly and was primarily a legislative body; in addition, it was not a court of last resort as its decisions were subject to review by the British Privy Council.

On December 12, 1778, the General Assembly designated the first judges, five in number. This has been regarded as the inception of the Court. The original salary was \$533 a year, for part-time service, substantially less than the full-time compensation awarded to the Chancellor and the judges of the General Court. Practicing lawyers fled from the honor and it went to planters who had experienced some prior exposure to the law. Ultimately, the position became full-time, compensated at the highest level in the Maryland judiciary.

Until 1851, vacancies were filled by the Governor, and the judges were to serve during good behavior. Thereafter they were subject to popular election for a term of years. Good behavior should have meant for life, but in practice the sitting judges were ousted in most of the Constitutional reorganizations of the Court. For example, an 1805 amendment created a new Court of Appeals to consist of the chief judges of the six circuit courts; and the 1851 Constitution replaced this with four judges whose duties were solely appellate, to be elected at large for ten year terms.

The Civil War Constitution of 1864 increased the number of judges to five, and their terms to fifteen years. It also required that they be chosen by district. The fifteen year term continued until 1976, and they are still chosen by district. Of far greater significance was the change effected by the War itself, which subjected the State judiciary to the domination of the Federal military. Judge Richard Bennett Carmichael of the Talbot County Circuit Court presumed to pass upon the validity of enlistments by Maryland minors in the Union Army. Armed soldiers bludgeoned him on the head with a pistol and dragged him off the bench. When Judge James L. Bartol of the Court of Appeals expressed outrage he was arrested without charge or warrant.

The 1864 Constitution was unpopular for other reasons. Even though known Southern sympathizers were barred from the polls, a majority of the Maryland vote opposed ratification, which was effected only by counting the vote of Union soldiers in the State. The relinquishment of Federal control brought a strong reaction and a complete overhaul in the Constitution of 1867. This reorganized the judiciary by dividing the State into eight circuits and by providing for a Court of Appeals to consist of the chief judges of the seven County circuits plus an eighth judge from Baltimore City whose duties were solely appellate. Once more the sitting judges were supplanted.

In 1944 the Court was again made exclusively appellate, and its number was reduced to five (increased in 1960 to the present seven). This time the sitting judges were continued in office, the reduction being left to attrition.

Although judges have been subject to popular election since 1851, as a practical matter most vacancies occur during their terms and are filled by the Governor. This gives the appointees the advantage of going before the electorate as sitting judges. In 1976 a Constitutional Amendment fortified this by having appellate judges run for confirmation solely on their records. There is no competing candidate; only a vote for or against retention. The same Amendment reduced the term of office to ten years. Retirement is still mandatory at age seventy.

Even before this change Governor Marvin Mandel had taken an important step forward by creating nominating commissions composed of lawyers and laymen and by committing himself to make his selections from their lists. His successor, Acting Governor Blair Lee III, made a similar commitment.

Since January 1, 1975, the Court has been able to substantially control its own docket and workload, selecting through a system of certiorari those cases that it considers of prime importance to the public and to the law. In most other litigation the Court of Special Appeals now operates as the court of the last resort.

Except for sessions which the Constitution, from 1805 to 1851, required it to hold on the Eastern Shore, in Easton, the Court has sat in Annapolis. Until 1903 it used a room on the southerly corner of the second floor of the State House (which presents its corners, not its faces, to the points of the compass). There was no central heating until the 1860s and warmth, if any, depended upon a fireplace, round which the judges huddled in severe weather. On such occasions Judge Thomas Beale Dorsey is said to have worn a black skullcap to compensate for his lack of thatch. In 1903 the Court moved to a new building across the street, and in 1972 to its present quarters on Rowe Boulevard.

Until 1826 oral arguments were limited only by the fervor and stamina of counsel. In that year the Court imposed a six hour limit. It has reduced this from time to time to the present allowance of thirty minutes per side. The 1851 Constitution required written opinions (formerly the practice rather than the rule) and published reports, which previously had been individual ventures on the part of the reporters.

Originally there were no written briefs. The reporters usually summarized the oral arguments and, to facilitate this, counsel made a practice of furnishing them with statements of their own points. Later these were furnished to the Court itself, from which evolved the present mandatory requirements for the advance submission of printed briefs. The first printed record made its appearance in the case of *C&O Canal v. B&O RR*, 4 C&J 1 (1832).

The Maryland Courts

The Court of Appeals

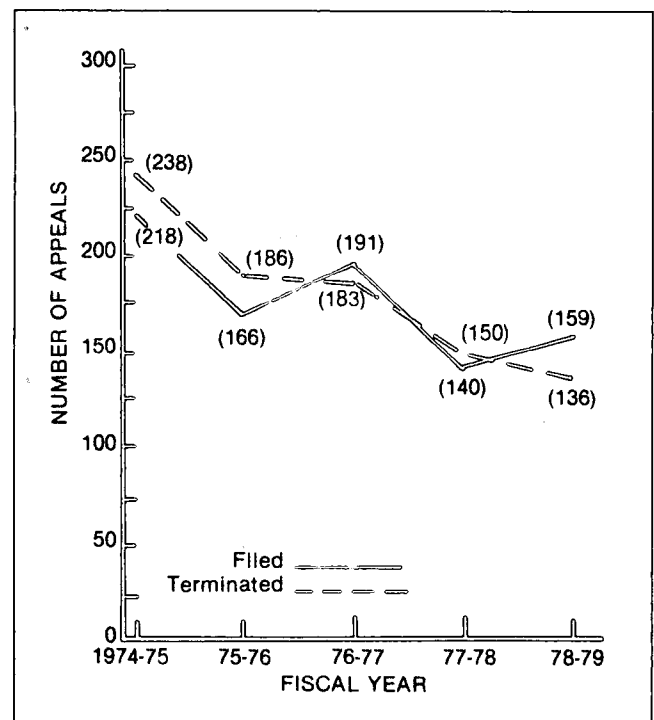
The Court of Appeals of Maryland is the highest tribunal in the State of Maryland and was created by the Constitution of 1776. In the early years of its existence, the Court met at various locations within the State, but since 1851 has sat only in Annapolis.

The Court is presently composed of seven members, one from each of the first five Appellate Judicial Circuits and two from the Sixth Appellate Judicial Circuit (Baltimore City). Members of the Court, after initial appointment by the Governor, and confirmation by the Senate, are elected to ten year terms of office. By a constitutional amendment (Chapter 551, Acts of 1975) ratified in 1976, judges of the Court of Appeals run for office on their records, without opposition. If the voters reject the retention in office of a judge, or if the vote is tied, that office becomes vacant and must be filled by a new appointment. The Chief Judge of the Court of Appeals is designated by the Governor and is the constitutional administrative head of the Maryland judicial system.

By legislation effective January 1, 1975, the Court of Appeals hears cases almost exclusively by way of certiorari. As a result, its formerly excessive caseload has been reduced to a manageable level so as to allow it to devote its efforts to the most important and far-reaching decisions. At present the Court may review a case decided by the Court of Special Appeals or may bring up for review cases filed in that court before they are decided there. The Court of Appeals may also review certain decisions rendered at the circuit court level if those courts have acted in an appellate capacity with respect to an appeal from the District Court. The Court is empowered to adopt rules of judicial administration, practice and procedure, which have the force of law. It also admits persons to the practice of law, reviews recommendations of the State Board of Law Examiners and conducts disciplinary proceedings involving members of the bar.

The Court of Appeals had 176 appeals on its regular dockets for consideration during the fiscal year, July 1, 1978, through June 30, 1979. Twenty-eight of those appeals were matters pending from the 1977 term docket that had been heard by the Court during the 1977-78 fiscal year, but had not been disposed of during that year due to the constraints of time. An additional 144 appeals were filed on the 1978 term docket while 4 appeals from the 1979 term docket were advanced and heard during 1978-79. At the close of the fiscal year on June 30, 1979, the Court had disposed of 136 appeals,

actually considering 128, with the other 8 being either dismissed prior to argument or disposed of in another manner. The remaining 40 appeals were heard during 1978-79, but were not disposed of by way of opinion due to the relatively short period of time between hearing and the close of the fiscal year. A total of 112 majority opinions were filed by the Court during 1978-79, 106 of which were reported. Members of the Court also filed 10 dissenting opinions, 2 concurring opinions, and 6 opinions concurring in part and dissenting in part. Appeals on the 1978 term docket averaged 3.5 months from docketing to argument and 2.8 months until decision. The Court also granted 101 of the 463 petitions for the issuance of Writs of Certiorari that it considered. In addition to its regular duties, the Court admitted 704 persons to the practice of law, conducted 30 disciplinary proceedings involving members of the bar, and considered issues of the moral character of applicants for admission to the bar. The Court also expended much time and effort in exercising its rule-making functions during 1978-79, and in supervising the budget and other activities of the Attorney Grievance Commission.



Court of Appeals — Appeals actually filed and terminated within fiscal year

The Court of Special Appeals

The Court of Special Appeals is Maryland's intermediate appellate court and was created in 1966 as the result of an increasing overwhelming caseload in the Court of Appeals which had caused that court to develop a substantial backlog.

The Court of Special Appeals sits in Annapolis and, although it was originally composed of five judges, now consists of 13 members. One member of the Court is elected from each of the first five Appellate Judicial Circuits while two members are elected from the Sixth Appellate Judicial Circuit. The remaining six judges are elected from the State-at-large. Members of the Court of Special Appeals are initially appointed by the Governor, confirmed by the Senate and thereafter run on their records, without formal opposition, and are elected to a ten year term of office in the same manner as are members of the Court of Appeals. The chief judge of the Court is designated by the Governor.

The Court of Special Appeals, except as otherwise provided by law, has exclusive initial appellate jurisdiction over any reviewable judgment, decree, order or other action of a circuit court and generally hears cases appealed as of right from the circuit courts. Judges of the Court are empowered to sit in

panels of three. A hearing or rehearing before the Court en banc may be ordered in any case by a majority of the incumbent judges of the Court. The Court also considers applications for leave to appeal in such areas as post conviction, habeas corpus matters involving denial of or excessive bail, and inmate grievances.

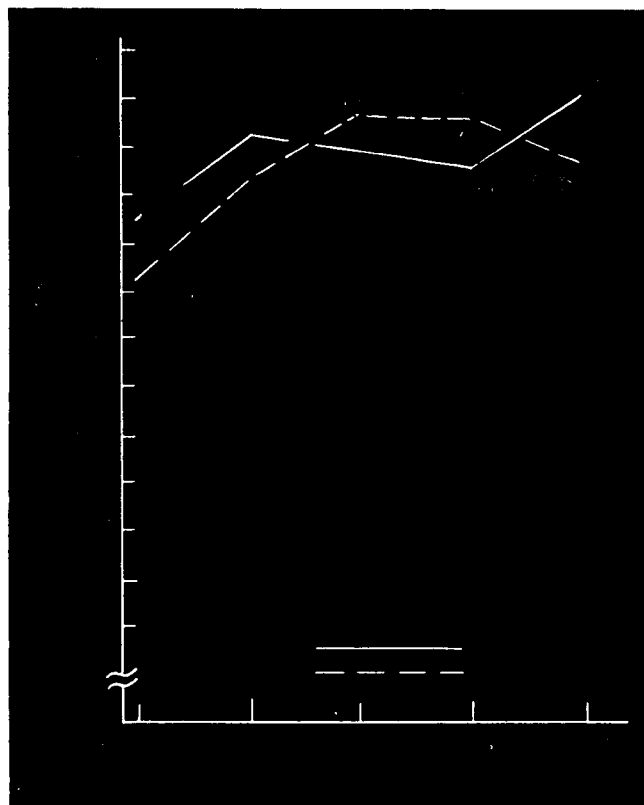
During the fiscal year July 1, 1978, through June 30, 1979, the Court of Special Appeals had 1528 regular appeals before it for consideration. One hundred and twelve of those were from the 1977 Term docket and had been heard during the previous fiscal year, but had not been disposed of by opinion due to the short period of time between hearing and close of the fiscal year. An additional 1,416 appeals were filed on the 1978 Term docket. By the close of the 1978-79 year, the Court had disposed of 1,369 appeals, leaving only 159 to be concluded. All of the latter number except one had been argued before the Court, but were not disposed of by opinion due to the shortness of time before hearing and the close of the fiscal year. Of the 1,369 dispositions, 936 were actually considered by the Court, with the balance being either transferred to the Court of Appeals for that court's consideration (85), dismissed prior to argument (347), or stayed (1). The average appeal was argued in 5.0 months after docketing and was disposed of by way of an opinion being filed in an additional 1.2 months. In disposing of its caseload, the Court of Special Appeals filed a total of 911 majority opinions, 196 of which were reported. Members of the Court also filed 6 dissenting opinions and 6 concurring opinions. The Court also disposed of 173 applications for leave to appeal (9 of which were granted) and 32 miscellaneous matters.

The Circuit Courts

The circuit courts are the highest common-law and equity courts of record exercising original jurisdiction within the state. Each has full common-law and equity powers and jurisdiction in all civil and criminal cases within its county, and all the additional powers and jurisdiction conferred by the Constitution and by law, except where by law jurisdiction has been limited or conferred exclusively upon another tribunal.

In each county of the State, there is a circuit court which is a trial court of general jurisdiction. Its jurisdiction is very broad, but generally it handles the major civil cases and the more serious criminal matters. The circuit courts may also decide appeals from the District Court and from certain administrative agencies.

These courts are grouped into eight geographical circuits. Each of the first seven contains two or more counties. The Eighth Judicial Circuit consists of Baltimore City. Judges of that circuit are appointed to



**Court of Special Appeals — Appeals
actually filed and terminated within fiscal year**

the Supreme Bench of Baltimore City. The Supreme Bench is composed of six courts; separately, each of the courts exercises varying degrees of overlapping or separate jurisdiction in relation to the others. Collectively, however, these courts act as one county circuit court.

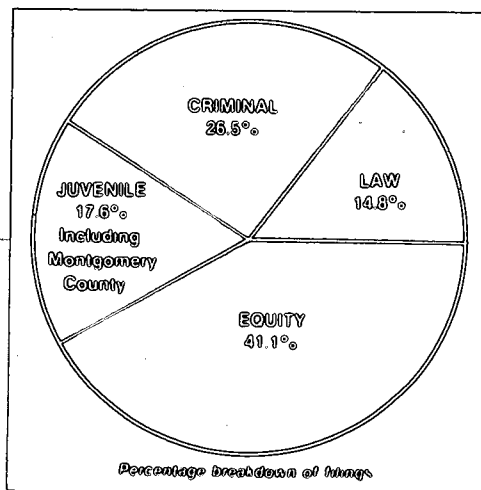
Presently, there are 97 circuit court judges (23 of them on the Supreme Bench), with at least one judge for each county. Unlike the other three levels of courts in Maryland, there is no chief judge for the circuit courts; instead, eight circuit administrative judges appointed by the Chief Judge of the Court of Appeals perform administrative duties in each of their respective circuits, with the aid of county administrative judges.

Each circuit judge is initially appointed to office

by the Governor and must stand for election at the next general election following by at least one year the vacancy the judge was appointed to fill. The judge may be formally opposed by one or more qualified members of the bar, with the successful candidate being elected to a fifteen-year term of office.

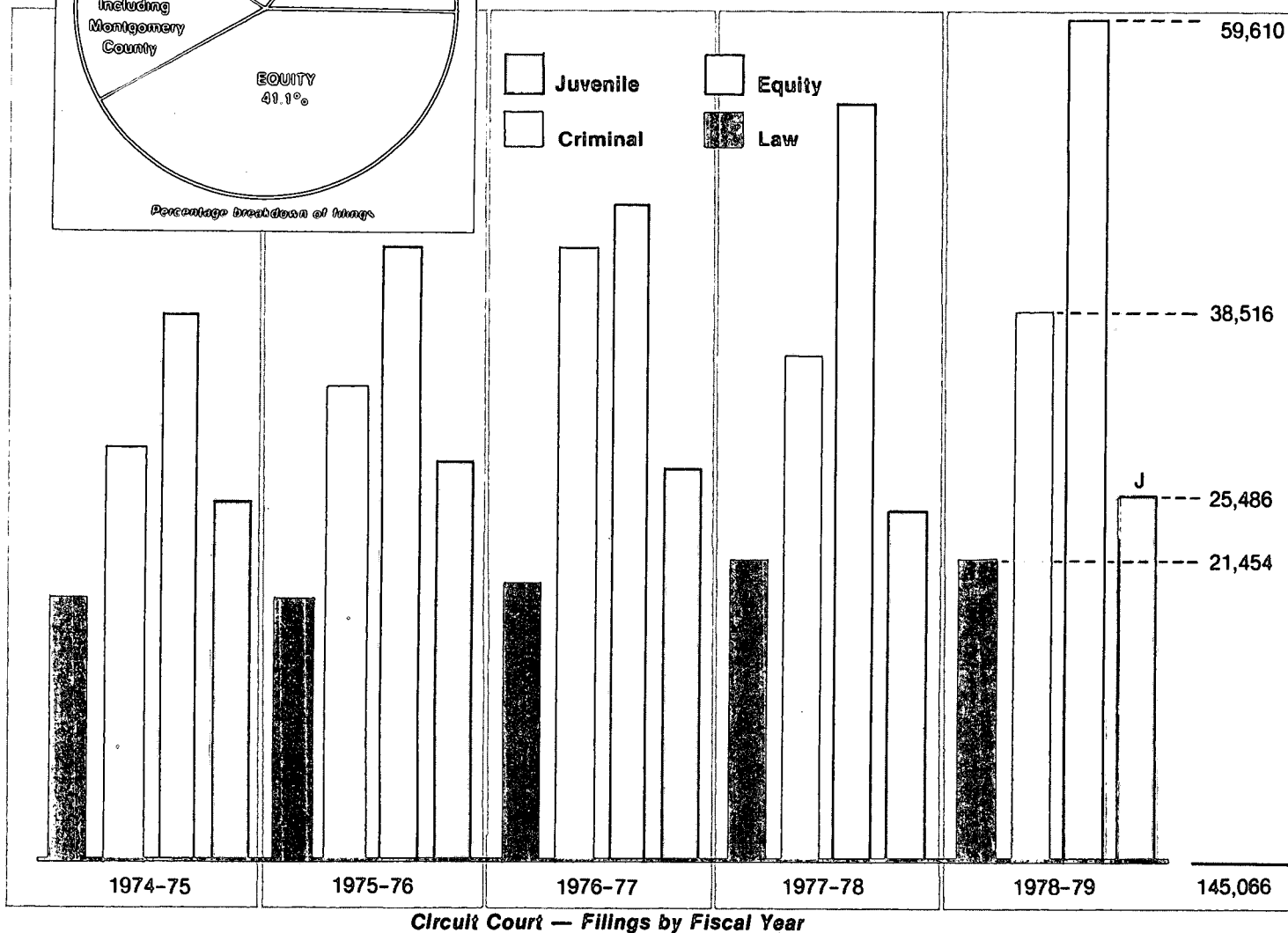
Total law, equity, juvenile and criminal case filings numbered 145,066 for the 1978-79 Fiscal year. This figure also includes 1,999 juvenile causes filed at the District Court level in Montgomery County. The total caseload for the past year consisted of 41.1 percent of the filings in equity, 26.5 percent of the filings in criminal, 17.6 percent of the filings in juvenile, and 14.8 percent in the law category.

Overall filings increased by 7.4 percent over last

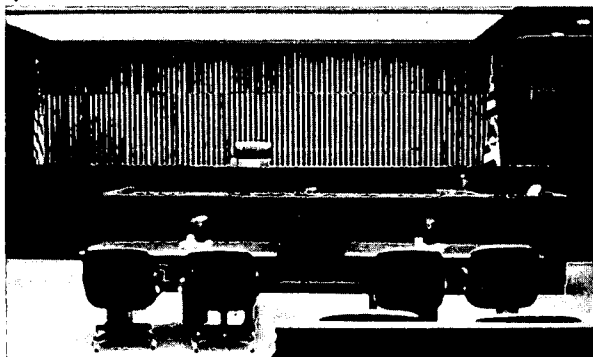


Circuit Court Filings and Terminations					
	1974-75	1975-76	1976-77	1977-78	1978-79
Filings	112,266	124,275	135,936	135,030	145,066
Terminations	105,882	117,742	128,412	119,817	129,460

Includes Montgomery County Juvenile Causes



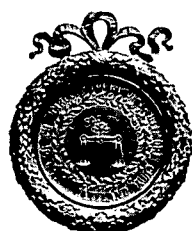
1



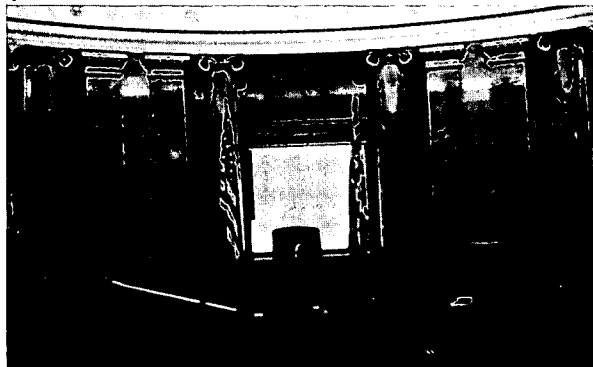
2



3



4



5



6



1. Circuit Court for Baltimore County
2. Circuit Court for Baltimore County
3. Circuit Court for Anne Arundel County
4. Supreme Bench of Baltimore City
5. Supreme Bench of Baltimore City
6. Court of Appeals

Photographs by Frank V. Broccolina

year. Equity filings increased by 11.2 percent over 1977-78 while criminal filings climbed by 7.8 percent. Juvenile filings increased by 3.7 percent, and law filings rose by 1.7 percent.

Terminations numbered 129,460 for the four major categories, an increase of 8.0 percent over the 119,817 tallied in 1977-78. Included in the 1978-79 figures are 2,232 terminations for juvenile causes heard by the District Court for Montgomery County. In all categories the number of filings exceeded the number of terminations. Terminations accounted for 89.2 percent of the total filings.

Although there may be overall trends, these do not necessarily apply to every jurisdiction due to fluctuations in circuit caseload.

The circuit courts conducted 2,479 law trials, 11,882 criminal trials and held hearings in 15,128 equity matters during fiscal 1978-79. Corresponding figures for 1977-78 were 2,393; 8,789; and 14,730. Jury trials were held in 806 law cases and 1,581 criminal proceedings in 1978-79 compared to 1,071 law cases and 1,526 criminal proceedings last year. Baltimore City accounted for 922 law trials and 5,550 criminal trials in 1978-79 and 660 and 3,418, respectively, in 1977-78.

During the year, 15,358 requests for criminal jury trials were prayed at the District Court level to the circuit court. Last year the figure was 11,999.

Appeals from the District Court and administrative agencies reported by the circuit court clerks totaled 6,847 statewide, a decrease of 8.2 percent over the 7,459 appeals filed in 1977-78. Decisions appealed from administrative agencies numbered 1,834 of which 729 or 39.8 percent originated in Baltimore City. Appeals from the District Court numbered 5,013 which includes those tried de novo and on the record. Forty-four percent or 2,196 of the appeals were recorded in Baltimore City. In the previous Fiscal year, 1977-78, the statewide District Court figure was 5,474 and in 1976-77, 6,168. The ratio of cases appealed compared to the caseload of the District Court has dropped to 0.4 percent. For the three previous years, it had been 0.5 percent.

Statewide there were 34 cases filed for every one thousand people in the circuit courts. This includes civil and criminal cases. Baltimore City registered the highest ratio with 71 cases per thousand population. Montgomery County recorded the lowest ratio with 15 cases per thousand population.

The District Court

The District Court of Maryland was created as the result of the ratification in 1970 of a constitutional amendment proposed by the legislature in 1969.

The District Court began operating on July 5, 1971, and replaced an existing miscellaneous system of trial magistrates, people's and municipal

courts. It is a court of record, is entirely State-funded and has state-wide jurisdiction. District Court judges are appointed by the Governor to ten-year terms, subject to Senate confirmation. They do not stand election. The first Chief Judge of the Court was designated by the Governor, but all subsequent Chief Judges are subject to appointment by the Chief Judge of the Court of Appeals. The District Court is divided into 12 geographical districts, each containing one or more political subdivisions, with at least one judge in each subdivision. Presently, there are 86 judges on the Court, including the Chief Judge. The Chief Judge is the administrative head of the Court and appoints administrative judges for each of the twelve districts, subject to the approval of the Chief Judge of the Court of Appeals. A Chief Clerk of the Court is appointed by the Chief Judge. Administrative Clerks for each district are also appointed as are commissioners who perform such duties as issuing arrest warrants and setting bail or collateral.

The District Court has jurisdiction in both the criminal (including motor vehicle cases) and civil areas. It has virtually no equity jurisdiction and has jurisdiction over juvenile causes only in Montgomery County. The exclusive jurisdiction of the District Court generally includes all landlord/tenant cases; replevin actions; motor vehicle violations; criminal cases if the penalty is less than three years imprisonment or does not exceed a fine of \$2,500, or both; and civil cases involving amounts not exceeding \$2,500. It has concurrent jurisdiction with the circuit courts in civil cases from \$2,501 to not exceeding \$5,000; and concurrent jurisdiction in misdemeanors and certain enumerated felonies if the penalty is three years or more. Since there are no juries provided in the District Court, a person entitled to and electing a jury must proceed to the circuit court.

The District Court processed a total of 1,140,951 cases during fiscal year 1978-79 including 628,408 motor vehicle cases, 88,839 criminal cases and 423,704 civil cases. Not included in these figures are 1,999 juvenile causes handled by the District Court in Montgomery County.

Criminal cases decreased in 1978-79 by 12.2 percent over the figures recorded in 1977-78 while civil cases increased by 6.4 percent for the same period. Due to fluctuations, the overall trends do not necessarily apply to every county.

A comparison of motor vehicle cases cannot be made to the previous year due to a change in the method of counting cases in 1978-79. Previously, motor vehicle cases that had been recorded as "stet" or "nolle prosequi" were counted in the number of cases tried. This year they were not included in the cases tried category.

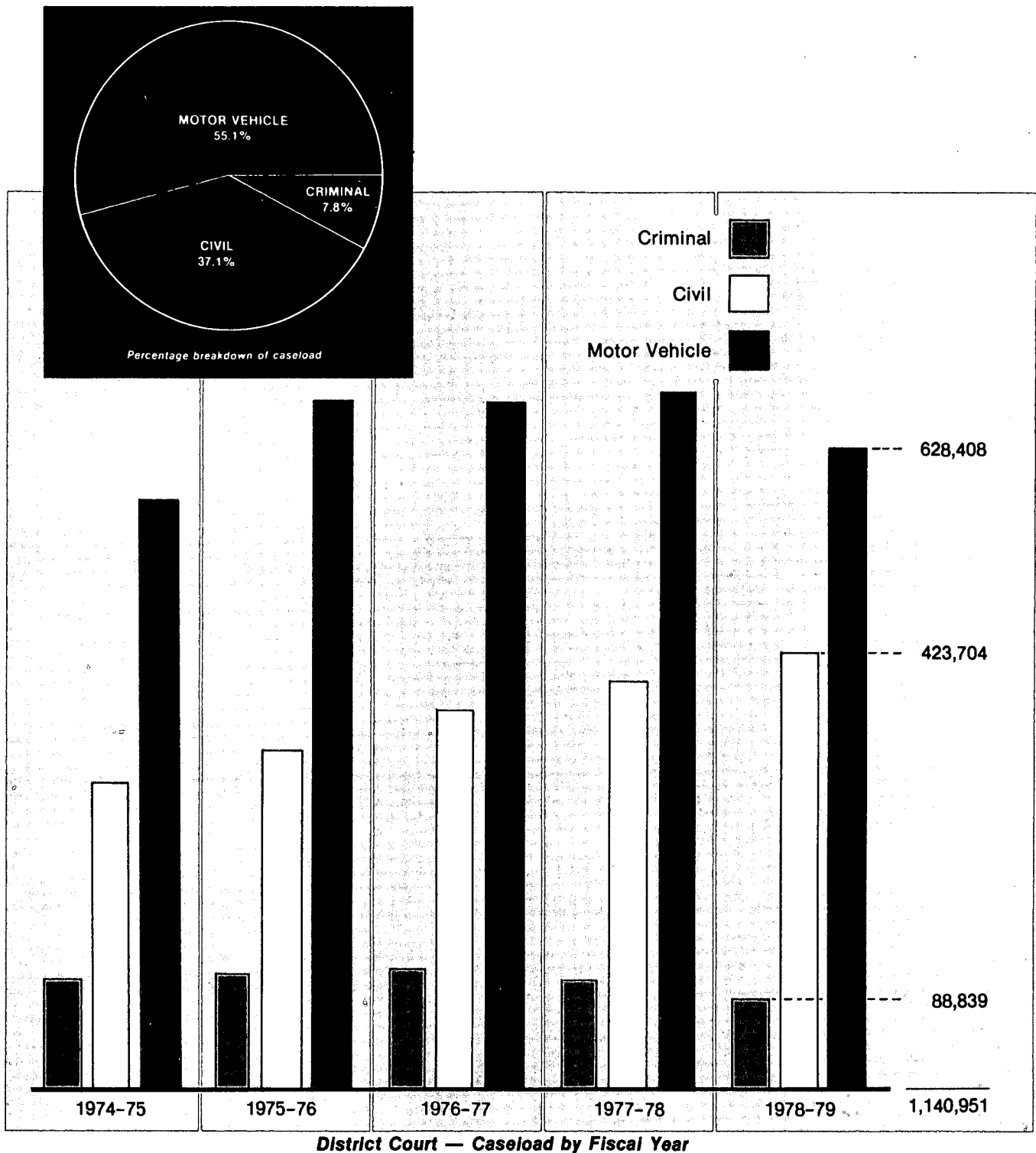
Statewide, 88,839 persons were charged with 133,713 criminal offenses in the District Court during 1978-79. Defendants held for action by the grand jury numbered 10,073 with an additional

6,837 defendants electing trial by jury at the circuit court level. Baltimore City registered criminal figures of 35,647 defendants and 58,961 charges while Baltimore County accounted for 12,424 defendants and 18,948 charges.

Disputes involving landlords and tenants were responsible for 70.0 percent of the civil caseload in 1978-79. Baltimore City, as expected, docketed the most civil actions with 164,623, followed by Prince

George's County with 107,264 and Baltimore County with 55,742.

State-wide, there were 272 cases filed or processed for every one thousand people. This includes criminal, civil, and motor vehicle cases. Cecil County registered the highest ratio with 594 cases per thousand population. Allegany County recorded the smallest number with 147 cases per thousand population.



Judicial Administration

Administrative Office of the Courts

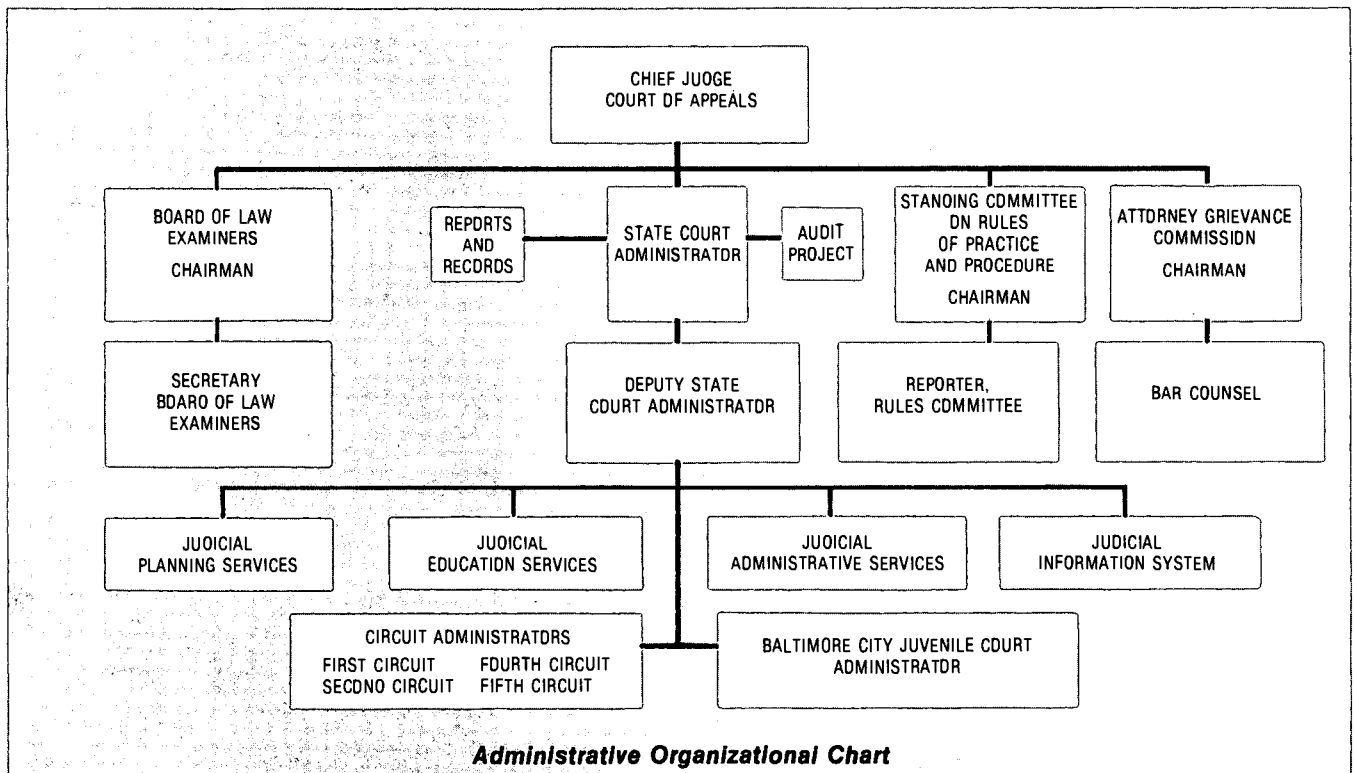
A decade ago, people thought of courts as being concerned primarily with adjudication. That is without doubt the major function of any judicial system. And no doubt there was a period in which this function could be satisfactorily conducted by a county judge assisted by a clerk and perhaps a court reporter. In those earlier and less complex days, there was little need for professional court administration.

However, in the more recent past, more and more litigants have flocked to the courts for the solution of more and more complex problems. Legislatures have created new causes of action. Legislatures and appellate courts have established new and complicated procedures. Caseloads have increased geometrically, and with them the number of judges, the size of supporting staff for the courts, and the amount of money required to assure the reasonably expeditious and effective administration of justice. Nationally, these factors have produced a general recognition that to perform their adjudicatory functions properly, courts must also be properly administered. A learned judge deciding cases is not enough; he must be provided with the support and the finances needed to assist him,

counsel, and litigants in the administration of justice.

This recognition first took concrete form in Maryland in 1944, when what is now Article IV, §18(b) of our Constitution was ratified by the people. Under this provision, the Chief Judge of the Court of Appeals is "the administrative head of the judicial system of the State." This constitutional enactment allocated the responsibility for overall administration of the Maryland judicial system, but it was not until 1955 that it was recognized that the Chief Judge required professional administrative staff to assist him in carrying out his administrative functions.

In the latter year, the General Assembly created the Administrative Office of the Courts, headed by a State Court Administrator appointed by and serving at the pleasure of the Chief Judge of the Court of Appeals, as provided by §13-101 of the Courts Article. The basic function of the State Court Administrator and the Administrative Office itself is to provide the Chief Judge with advice, information, facilities, and staff to assist him in the performance of his administrative duties, and to implement court administration policies established by the Chief Judge, the Court of Appeals, and the General Assembly.



Information

Proper management of an enterprise requires the collection and analysis of information about such things as workload and performance. Courts are no exception. Since its establishment, the Administrative Office of the Courts has been charged with collecting and compiling statistical and other data, making reports of the business transacted by the courts, and transmitting this information to the Chief Judge.

The information gathering function is largely conducted by the Information Systems Unit in the Administrative Office of the Courts. For several years the system has been operated in an automated mode. Its major source of information consists of statistics and criminal justice information supplied by court clerks throughout the State. Data are also obtained from the appellate courts and from the District Court. As in the case of all information systems, there is a continuing struggle to produce information that is both accurate and timely, as well as useful to the potential user or users. In Fiscal 1979, an auditing project took initial steps towards verifying accuracy of statistics. This program will continue in the coming fiscal year, along with new evaluations of user need and some steps to redesign both the Maryland Judicial Information System and the Criminal Justice Information System. A great deal of the data gathered through the latter are passed on to the executive branch, and are of little direct benefit to the courts.

In addition to gathering and manipulating workload and performance data, the Information System Unit has participated and still participates in the design and operation of a number of case processing systems. These include a system in the Criminal Court of Baltimore, a system in the Baltimore Juvenile Court, and one in the Circuit Court for Anne Arundel County. Coordination of systems of this kind will become more important as use of automation spreads to the larger courts throughout the State.

At the District Court level, a mini-computer operation is managed by District Court Headquarters, serving a number of functions for that court. In addition, the Administrative Office's Information Systems Unit, together with the District Court, has developed an automated traffic adjudication system which has run successfully in Montgomery County. In Fiscal 1980, it will be expanded into Baltimore County. Plans call for eventual expansion to most of the major jurisdictions in the State, although the high cost of this excellent system is causing careful analysis of its cost effectiveness.

In Fiscal 1979, the National Center for State Courts provided technical assistance to the Information Systems Unit in the form of a brief preliminary evaluation of the Unit's operations. Plans now call for a much more extensive evaluation in Fiscal 1980,

with the aid of a grant through the Governor's Commission on Law Enforcement and the Administration of Justice. This evaluation should provide a foundation for future planning and development of ADP technology in the judicial branch. Together with the audit project and assistance derived from the National Court Statistics Project now being conducted by the Conference of State Court Administrators and the National Center for State Courts, these endeavors should establish a solid basis for future activity.

Planning

One of the major uses for information in a court system is planning. Although there are numerous external factors that control court workloads and other factors bearing upon the disposition of business of the courts, planning is still a valuable function. Efforts can be made to chart the appropriate future direction for development of the judicial system, and attempts can be made to forecast future workload so that the necessary resources may be assembled in time to handle it. Planning, in other words, involves trying to foresee future problems and to structure solutions for them instead of responding to crises that have already developed. The Planning Unit in the Administrative Office handles this function.

One of its more successful recent planning projects has been the development of standards to be used in determining the need for additional judges at the circuit court level. The unit has developed an analysis based on a number of factors, with case filings as one of the most important. By projecting future case filings in various counties, it is possible to recommend to the Chief Judge an appropriate number of circuit court judges for each county. This statistical analysis is then subjected to further study by administrative judges, who submit additional data and arguments based upon factors that go beyond mere statistics. The result is that the Chief Judge can make recommendations to the legislature in this regard based upon a rational process as opposed to political pressure or performance problems produced by factors other than an actual need for additional judicial positions. The Chief Judge used this procedure at the 1979 legislative session, requesting seven additional circuit court judges. The General Assembly enacted Chapter 480, creating these judgeships in the counties in which the Chief Judge had requested them.

The Planning Unit is now attempting to refine this procedure by working in a weighted caseload analysis. It is hoped that this additional enhancement will be available in Fiscal 1980.

The Planning Unit is also active in handling much of the Federal grant process in the Administrative

Office, since most applications for Federal grants go through the Governor's Commission on Law Enforcement and the Administration of Justice, and thus have to do with future planning, particularly in the criminal justice area.

Deployment of Judicial Manpower.

Along with the gathering of statistical information, the legislation creating the Administrative Office identified as one of the office's major functions the making of recommendations to the Chief Judge regarding assignment of judges to courts in need of assistance. Thanks to the administrative structure of the circuit courts and of the District Court, a good deal of this activity can be handled by the Chief Judge of the District Court and by administrative judges in the field. However, for inter-circuit and inter-court assignments, action by the Chief Judge of the Court of Appeals is required and he is assisted in this task by the Deputy State Court Administrator. Using statistical information and specific requests for assistance, the Deputy State Court Administrator makes recommendations to the Chief Judge of the Court of Appeals, sometimes through implementation of a previously developed general plan for assignment of judges and sometimes by making specific ad hoc proposals. In addition, since the implementation of the Constitutional authorization for temporary use of retired judges, rather extensive use of these former judges has been made. The ability to assign judges to sit in any court, as needed coupled with the ability to recall former judges for temporary service, aids materially the performance of the Chief Judge's responsibility to administer the State court system. Through use of the assignment or designation procedure, judges can be moved from relatively light workload areas to ones with especially heavy workloads or ones in which long vacancies, illness, or temporary emergencies have produced a need for additional judges on a part-time basis.

Education and Training

Like the members of other professions, judges need both initial and continuing education to improve their ability to perform their important responsibilities. In addition, the non-judicial personnel who provide support to the judges must be trained. These tasks are supervised by the Judicial Education and Training Unit. As in the past, this unit in Fiscal 1979 organized orientation sessions for newly-appointed trial court judges and continuing education sessions for all judges, both at the annual Judicial Conference and at other times during the year. Fifteen judges attended sessions of the National Judicial College and other out of state training activities.

Orientation programs for the Administrative Of-

fice and District Court personnel were also arranged, and the unit worked with the circuit court clerks in developing certain training activities conducted by them. One member of the Administrative Office staff attended the resident session of the Institute for Court Management in Fiscal 1979. The office is now moving towards achievement of the goal of ICM training for all its professional staff members, as well as for all its circuit administrators.

The Judiciary Budget

Another of the basic functions of the Administrative Office is to prepare and manage the State judiciary budget, under the supervision of the Chief Judge. This is the major duty of the Judicial Administrative Services Unit, which also handles personnel matters and equipment and supply purchases within the Administrative Office and related court supporting organizations. Since courts cannot operate without funding, the importance of this function is obvious. It should be noted, however, that although the appellate courts, the Administrative Office, and the District Court are State funded, the circuit courts (except for judges' salaries) are largely locally funded. The result of this arrangement is that something in the neighborhood of 27 percent of what public monies are spent on the judicial system are spent by the political subdivisions, mainly out of property tax revenues.

Liaison with the Legislative and Executive Branches

The budget is one example of an important area of liaison with both the executive and legislative branches, since judiciary budget requests pass through both and must be given final approval by the latter. In a number of other areas, including the support or opposition of legislation, the appointment of judges, and criminal justice and other planning, close contact with one or both of the other branches of government is required. On occasion, liaison with local government is also needed. On a day to day working level, this liaison is generally supplied by the State Court Administrator and other members of the Administrative Office staff as well as staff members of District Court Headquarters. With respect to more fundamental policy issues, including presentation of the State of the Judiciary to the General Assembly, the Chief Judge takes an active part.

Recommendations as to Improvements of the Judicial System

By statute, the Administrative Office is also required to make recommendations to the Chief Judge

for improvement of the judicial system. In this area, proposals are occasionally made, but major recommendations in this regard normally come from the Maryland Judicial Conference or one of its committees, the Conference of Circuit Judges, the Standing Committee on Rules, or some other body. This is partly caused by the Maryland Judiciary's strong orientation towards decentralized administration and decision making at the circuit court level and partly by some lack of clarity as to how the basic policy making function is to operate in the State. It is plain enough that the ultimate administrative authority rests in the Chief Judge, but this tells little about how he is to go about making policy decisions or who is to participate in formulating policy. The present lack of certainty in this regard is probably a natural result of the development of the Maryland judiciary from a rather small and almost totally locally-oriented system to a considerably larger one with many elements structured around central rather than fragmented organization and administration. As noted elsewhere in this Report, efforts are underway at various levels to propose clearer lines of and better mechanisms for policy formulation.

Another major activity now in the planning stages is the establishment of a personnel system for the non-judicial employees of the judicial branch. A study of this matter was originally undertaken by consultants obtained through an LEAA grant. The work of the consultants was disappointing, but the project has continued under the supervision of an Advisory Committee, appointed by the Chief Judge. This committee has drafted implementing legislation that would provide for a Judicial Branch Personnel System that would include essentially those employees of the judiciary whose salaries are appropriated through the State budget. The draft legislation will shortly be submitted to the Chief Judge for his review.

Administrative Conference

The Chief Judge of the Court of Appeals has recognized the need for consultation regarding administrative decisions as well as the need for a mechanism to assure that such matters are kept under consideration until finally resolved. To address these needs, he organized an Administrative Conference in the latter part of 1977. As now constituted, the Conference consists of the Chief Judge of the Court of Appeals, the Chairman of the Conference of Circuit Judges, the Chief Judge of the District Court, and the State Court Administrator. Thus, the Conference includes judicial representation from the several court levels, as well as a non-judge administrator.

The Conference meets approximately monthly. An agenda is distributed in advance of each meeting and a memorandum of the Conference actions following each meeting. In addition, a docket is main-

tained listing each matter considered by the Conference and each such matter is kept on the docket until the Conference has disposed of it.

This procedure offers a method whereby judiciary leaders can be kept informed as to system-wide developments and by which the Chief Judge of the Court of Appeals can consult with others as he formulates administrative policy. The procedure has proved to be of substantial benefit for the purpose of administrative decision making.

Circuit Court Administration

Continued efforts to improve existing space use and to upgrade court facilities met with varying degrees of success in Fiscal 1979. As a result of the additional judgeship for Worcester County authorized by the 1979 General Assembly, certain renovations are under way to provide chambers and a courtroom. In Talbot County, a renovation program to house improved court facilities, the State's Attorney's Office and the Law Library is almost complete. A feasibility study begun last year to address the severely overcrowded conditions in the Anne Arundel County Courthouse is nearly complete. Planning and design for additional renovation and remodeling of the Prince George's Courthouse has been completed and construction is expected to begin as soon as possible. It will add courtrooms, chambers, improve the Grand Jury Room, the Law Library, the Lawyers' Lounge and provide expanded office space for the Clerk's Office.

In the last Annual Report it was noted that the Supreme Bench of Baltimore City had been successful in securing the old Federal Post Office and Courthouse building to renovate and transfer some of its courts to this facility. In Fiscal Year 1979 renovation continued and has nearly been completed. Coinciding with the completion of the renovation activity, Supreme Bench Judges have adopted the policy of occupying permanent chambers and have eliminated the annual move that had taken place many years. Court assignments will rotate every six months, but the judges will remain stationary.

Efforts to improve jury management have continued in the circuit courts. The circuit courts in more than one half of Maryland's 24 political subdivisions have or will soon have a juror orientation slide presentation. In addition to the use of slide presentations in the courts, interest has also been expressed in showing these slide presentations to high school students. In Wicomico County, the court has instituted the use of juror exit questionnaires to be completed at the end of the jurors' term of service. All information solicited is voluntary and confidential. In the Fifth Circuit, Anne Arundel County shortened the period of service for petit jurors from six months to four weeks. Periods of service overlap with a new group of petit jurors being indoctrinated

every two weeks. All jurors "call in" each night after the indoctrination so that a pool of as many as 150 jurors is readily available with minimum cost and effort. The shortening of the period of service was accomplished without increase in court personnel.

Another significant step to improve jury management was implementation of the One-Day/One-Trial Jury System in Montgomery County. It has proved successful and all participants are enthusiastic about it. Montgomery County has been able to reduce its cost for juror compensation by \$20,000 in the Fiscal 1980 Budget.

Efforts to improve the processing of cases in the circuit courts continued in the last twelve-month period. In an effort to reduce the backlog of the civil docket, the Circuit Court for Worcester County instituted a Pre-Trial Settlement Conference project for all civil jury cases that were at issue for more than six months. Attorneys and parties were required to attend the conference and make a sincere effort to settle the case at that time. As a result of its operation, approximately 40 percent of the cases in the Settlement Conference assignment were settled either at or prior to the conference. An additional 15 percent of the cases originally set for settlement were settled within 60 days after the conference but prior to trial. Success of the program suggests that it may be reinstituted. Montgomery County instituted new pre-trial procedures and a calendar call with respect to all law cases scheduled for trial on the merits. The process requires a settlement conference with counsel approximately 30 days prior to trial and a readiness calendar call two weeks prior to trial. The procedure was devised after a study of settlement and case monitoring systems in several courts. It has been in effect for only a short period of time and no firm conclusions can be arrived at. Calendar calls are averaging about one hour for 30 to 40 cases. The percentage of cases settled by calendar call has been approximating between 35 and 40 percent. The Supreme Bench also reports that it has established guidelines for managing the civil jury and non-jury law dockets with the result that postponements will be granted only for the gravest of reasons.

The last twelve-month period concluded three years that the juvenile court clerk's office in Baltimore City has been part of the Administrative Office of the Courts as a result of Legislation passed in 1976 transferring it from the Juvenile Services Administration to the judicial branch. Day-to-day administration of the office is left to the judge presiding in that court and to the non-judicial personnel staffing it. The presiding judge and other judges assigned from time to time, the seven masters and support personnel continued to focus on ways to improve case processing. Three masters in the Juvenile Court each were assigned to hear domestic equity cases one day per week for most of the

twelve-month period. The Juvenile Court will continue to offer assistance though it may be reduced somewhat from time to time depending upon the backlog of juvenile matters.

Another step taken last year that will continue is the assignment of one master to hear preliminary matters in non-delinquency cases to reduce the need for adjudicatory hearings so that only the most serious appear on the hearing docket. A program successfully undertaken last year was that of enlisting retired individuals under the Retired Senior Volunteer Program sponsored by Maryland's Department of Human Resources and a private corporation. Participants in the program assist persons summoned to find the correct hearing room location. They are assigned to the waiting room of the Juvenile Court. There are 15 volunteers providing this assistance and the program was one of ten finalists to receive the 1979 Volunteer Activist Award from the sponsors. A needed improvement during the past year was the doubling of space for the Clerk's Office, which has relieved an overcrowded situation and improved the morale of all employees.

District Court Administration.

The business and management side of the District Court is an operation of unique size in Maryland, as it is only the District Court, of Maryland's two trial courts, that is totally State funded and centrally administered. Although the very words somehow seem inconsistent with our concept of justice, the truth of the matter is that the operation of the District Court is, of necessity, a major business undertaking. The 86 judges of the District Court sit in 75 courtrooms located in 42 buildings in every part of the State. The Court is staffed by 600 clerks, bailiffs and constables, and by almost 200 District Court commissioners. The expeditious processing of the almost 1.2 million cases that are filed in the Court each year is accomplished by the use of 165 separate forms, each designed by Court personnel and each printed and distributed at State expense.

In the fiscal year just concluded the General Assembly provided in the State budget approximately \$17 million for the operation of the District Court, and the Court collected and paid back into the State treasury more than \$23 million in fines, court costs and forfeitures. Indeed, the \$23 million in revenues collected by the District Court was almost equal to the total sum provided in the budget for the operation of the entire judicial branch of government.

To operate and administer the Court statewide the District Court employs in its Annapolis headquarters office a staff of 43 — a far cry from the provisions of the first budget for the District Court, in 1971, which allowed only for a secretary to the Chief Judge, a Chief Clerk and Assistant Chief Clerk,

and an additional secretary for them. This understatement of the Court's administrative and clerical needs quickly became apparent in the months of May and June 1971, as the Court's limited staff began their preparations for the official opening of the Court on July 5, and was beset with myriad problems relating to the receipt and transmittal of fines and costs, transfers of personnel from predecessor courts, establishment of leave and payroll records, the purchasing of equipment necessary for the Court to function and the acquisition of the facilities in which the Court would operate in the various parts of Maryland.

Today, eight years later, the Chief Clerk, the highest ranking nonjudicial officer in the system, is responsible to the Chief Judge of the Court for its statewide operation and administration and is assisted in the internal management of the Court by four Assistant Chief Clerks.

The first Assistant Chief Clerk of the Court quickly became its chief fiscal officer. He established procedures for safeguarding the Court's revenues in 1971, and today is the director and supervisor of all the Court's budgetary and fiscal operations.

The many personnel details involved in a system with a payroll of almost one thousand people are now the responsibility of an Assistant Chief Clerk for Personnel. This officer of the Court is charged with establishing and maintaining all personnel records, the training and education of clerical personnel in cooperation with the Administrative Office of the Courts, and working with the State Department of Personnel in developing appropriate classifications for the Court's employees.

To assist the Chief Clerk in a variety of necessary functions the Court employs an Assistant Chief Clerk for Administration, who serves as the liaison officer with District Court commissioners and constables, supervises the collection and reporting of the Court's statistics, manages the Court's records, and oversees Court personnel who are engaged in preparing 45,000 pages of transcripts for on-the-record appeals, and preparing 2,000 cassette recordings of District Court trials for those who have need of them.

For the past two years the Court's heavy purchasing activities have been the responsibility of a fourth Assistant Chief Clerk, for Purchasing and Facilities. The duties of this officer not only include supervising the \$500,000 of items purchased by the Court each year and the responsibility for the proper operation of the Court's warehouse, but also include acting as liaison with the Department of General Services and the Department of State Planning in the selection, leasing, design, construction and equipping of the Court's physical structures throughout the State.

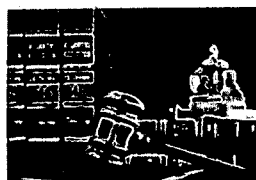
To ensure that all requirements of law and directives of the Chief Judge are fulfilled in the court's operations, the Court employs a Chief Auditor and

three Associate Auditors, who travel constantly throughout the State and submit periodic reports on the Court's compliance with established procedures.

The primary responsibility for the operation of data processing and computer systems for the entire judicial branch of government is now vested in the Administrative Office of the Courts, and in concert with that office the District Court has instituted and is expanding an automated system of maintaining its motor vehicle case files, preparing motor vehicle violation dockets and accounting for fines and costs received in motor vehicle cases. The District Court, however, at the present time also operates an internal data processing system housed in the Traffic Court Building in Baltimore City. This unit not only utilizes computer techniques in the preparation of various District Court dockets, but also serves to produce a dozen or more statistical reports vital to the Court's proper operation. The unit also dovetails with the Information Systems of the Administrative Office in collecting and reporting all of the essential elements in criminal trials for transmission to the Criminal Justice Information System maintained by the Department of Public Safety. Within recent months this unit has also begun the production of a monthly report on the Court's expenditures, and has undertaken the maintenance of time cards, annual leave, sick leave, and other records for all of the Court's personnel.

No description of the business operations of the District Court would be fair or complete without reference to the key role played in the Court's administration by the Administrative Judges and Administrative Clerks and their supporting personnel in the Court's twelve districts. These officers not only perform the vital function of ensuring that the Court's policies and procedures are actually followed in the field, but render great assistance to the Chief Judge and the Chief Clerk in establishing the Court's administrative guidelines.

When the District Court was established in 1971, Maryland was almost unique among the states in abolishing all part-time and local courts of limited jurisdiction and creating in their stead a single statewide court, centrally administered, and staffed by judges who were required to be experienced in the practice of law and to devote their full time to judicial duties. Over the past eight years, however, more and more states have begun to emulate the Maryland model, and it is apparent that Maryland's 1971 innovation is now the wave of the future.



Assignment of Judges

Pursuant to Article IV, Section 18 (b) of the Maryland Constitution the authority to make temporary assignments of active judges to any court is vested in the Chief Judge of the Court of Appeals. And, pursuant to Article IV, Section 3A, and Section 1-302 of the Courts Article, the Chief Judge, with approval of a majority of the judges of the Court of Appeals, can recall former judges to sit in courts throughout the State.

For the twelve-month period ending June 30, 1979, efforts to maximize the use of active and former judges by temporary assignment to courts throughout the state, continued at a high level. While Section 1-302 contains some conditions which limit the extent to which a former judge can be recalled, being able to do so is most helpful because it provides needed temporary judicial assistance without having to call upon active full-time judges with the consequent disruption of schedules and delay in the disposition of cases.

Fully supported by justification (extended illnesses, long unfilled vacancies, disqualification, protracted complex cases), twelve active circuit court judges, designated by the Chief Judge, provided temporary judicial assistance in the circuit courts for 55 judge-days pursuant to a pre-determined schedule adopted in 1975 by the former Conference of Circuit Administrative Judges and approved by the Chief Judge. This schedule, covering a full calendar year, informs a circuit administrative judge up to a year in advance as to the period(s) for which his circuit may be called upon to provide assistance throughout the State if it is requested.

Former judges complemented efforts to maximize the use of available judicial manpower to the extent of a 100 percent increase in the twelve-month period ending June 30, 1979 over the previous twelve-month period. The Chief Judge of the Court of Appeals designated 8 former judges a total of 14 times to serve in the circuit courts for 130 judge-days, the equivalent of over one-half a judge-year and costing just over \$23,000. Monetary savings to the State were realized because the State did not have to pay the employer's share of Social Security taxes, make any contribution for health benefits, or contribute to the Judges' Pension System.

In addition, efforts to effectively use available manpower in the circuit courts were made by circuit administrative judges pursuant to their authority under the Maryland Rules to shift judges around within their circuits without formal approval by the Chief Judge. Exchanges of judges between circuits occurred no less than ten times during the course of the year where by reason of disqualification of judges to preside over particular cases, assignments were moved outside the circuit.

The effort was also enhanced by volunteering appellate judges who sat where their services could

best be utilized. Specifically, this took place during the summer months in the circuit courts. For example, five appellate judges were designated to three different circuits with assignments ranging from one to two weeks.

Temporary Judicial Assistance to the Circuit Courts* by Active and Former Circuit Judges July 1, 1978-June 30, 1979

Circuits Assisted	No. of Designations		
	Active Judges	Former Judges	Judge-Days
First		1	1
Second		1	8
Third		3	24
Fifth	4	4	70
Sixth		1	6
Eighth	8	4	76
	12	14	185

*This includes assistance by active Circuit judges pursuant to the Temporary Judicial Assignment Plan (Schedule of Weeks by Circuit) for the Circuit Courts and by seven former Circuit judges and one former appellate judge. It does not include assistance by appellate judges, exchanges between circuits or assignments within circuits pursuant to Maryland Rule 1202. In addition the District Court provided assistance to the circuit courts for 369 judge-days, 219 of which were in the Criminal Court of the Supreme Bench of Baltimore City.

Unfilled vacancies, extended illnesses, and the need to dispose of a backlog of cases were addressed by the Chief Judge of the District Court, who pursuant to the constitutional authority vested in him, made within that court 415 assignments that totaled 596 judge-days. Two former District Court judges were recalled for temporary assignment and sat a total of 61 judge-days, increasing the period of service over last year, at a cost of about \$9,100. In addition, the Chief Judge of the Court of Appeals designated District Court judges to sit in the circuit courts for 369 judge-days of which 219 were in the Criminal Court of the Supreme Bench of Baltimore City.

Temporary Assistance by the District Court by Active and Former District Court Judges

	No. of Designations	Judge-Days
Intra Court	415	596
Circuit Courts (excl. Supreme Bench)*	16	150
Supreme Bench	17	219
Former Judges to District Court (2 Judges)	17	61

*Includes judges assigned under a "blanket" designation process for one year at a time.

Likewise, the Chief Judge exercised his authority at the appellate court level by cross-designating appellate judges to sit in either court to hear specific cases. For example, five judges of the Court of Special Appeals were designated to sit as Judges of the Court of Appeals. Assistance was provided to the Court of Special Appeals by the circuit courts by four circuit judges for a total of six judge-days.

Programs and Developments

Several projects were carried on during the past fiscal year to assist the courts in carrying out their management and operational functions. Some of these were developed as a result of the availability of federal funding, but others were undertaken through existing resources found within the court system. Listed below is a summary of these programs.

Programs In-Progress

Case Processing Time Project — Working in coordination with the Governor's Commission on Law Enforcement and the Administration of Justice, the Judicial Information Systems' staff has recently developed a new computerized program which will display the various time intervals of cases disposed in criminal, law, juvenile and equity courts. Information will be available by case type on all pending and terminated cases for each county in the State. It is hoped that once this data is disseminated on a regular basis (quarterly), court personnel will be more readily able to identify areas of delay within their jurisdictions.

Affirmative Action Program — In January of 1979, a formalized affirmative action plan was instituted for personnel in the Administrative Office of the Courts and juvenile clerk's office in Baltimore City. This program outlined several objectives and steps to be taken in order to provide a more balanced approach to hiring and promotion within these offices. A formal evaluation will be conducted at the end of calendar year 1979 to assess the objectives established in the plan.

ICM Fellowships — Court Studies — In May of 1979, four members of court support staffs around the State became Fellows of the Institute for Court Management. As part of the internship portion of this program, the following studies were completed analyzing various aspects of judicial administration:

- An Analysis of the Criminal Case Assignment System in the First Circuit (by the Circuit Administrator for the First Circuit)
- A System Analysis of the Civil Assignment Division in Baltimore City (by the Deputy Commissioner of the Criminal Assignment Office in Baltimore City)

- The Use of the Delphi Approach in Determining Judicial Manpower Needs in the Circuit Courts (by the Assistant Director for Judicial Planning of the Administrative Office of the Courts)
- An Assessment of Public Information Needs Concerning Maryland Courts (by the Administrative Specialist of the Reports and Records Unit of the Administrative Office of the Courts)

Computerized Aided Transcription — Baltimore City — Beginning with the fall of 1979, court reporters' notes will begin to be computerized in four to six criminal courts of Baltimore City's Supreme Bench. Aimed at reducing the time required to type transcripts, this project will provide the two-fold purpose of making court reporters' time more free to edit transcripts as well as increase the availability of records for appeal. At the end of one year, this effort will be evaluated to assess its overall impact on workload and possible expansion into other courts.

Sentencing Guideline Project — Based upon formal recommendations of the 1979 Maryland Judicial Conference, this project will study the feasibility of developing sentencing guidelines for the Maryland Judiciary. Utilizing sentencing data from Baltimore City, Harford, Montgomery, and Prince George's Counties, it is anticipated that within two years, sufficient data will be available to be used as a basis for assisting judges in sentencing. If successful, the ultimate goals of this project would be to (a) increase equity in sentencing (by reducing disparity) and (b) articulate explicit sentencing policies on a regular basis.

New Programs

Reduction of Case Processing Delay — In a cooperative effort with one or more circuit courts in mid-size jurisdictions and the Administrative Office of the Courts, this project will employ technical assistance efforts in order to assess operational and procedural problems in the processing of cases. Participating jurisdictions will be encouraged to implement operational controls and procedures which have been identified as assisting in the timely disposition of cases. Evaluations will determine whether techniques can be transferred to other courts.

Team Management Seminar — Nationally, seminars in court management techniques for judicial teams, the administrative judge and the court administrator, have been well accepted and have led to a clearer understanding of roles on the part of these officials in the complex environment of the court system. In the fall of 1980, a conference of this type is planned for judges and their administrators with the intention that experiences from other states can be transferred to practical applications within Maryland.

Court Related Units

State Law Library

The Maryland State Law Library serves as a primary legal resource tool of judges, lawyers, legislators and various State and local government officials. Also included among the clientele of this unique Library are students, educators, professional and amateur genealogists and concerned citizens who are expressing an increased desire to examine the law that is affecting their lives more directly each day.

The Library was originally established by an act of the Legislature in 1827 and was organizationally structured under the Executive Branch of State government until the Legislative Session of 1978 when it was transferred to the Judicial Department and had the name altered to include "Law" in the title. The Library is governed by a Committee which must be composed of at least three members who are appointed by the Court of Appeals. This Committee's powers include appointment of a Director of the Library and appropriate rule making.

With a total collection in excess of 280,000 volumes this public facility offers the researcher access to a unique information resource. The collection, which is basically composed of reference materials in the subject areas of law, social sciences, state and local history and government documents, does not circulate, except to State agency personnel, though interlibrary loan arrangements can be made.

The Law Library's holdings of State and Federal government publications add tremendous latitude to the research materials found in most law libraries. Having been a select U.S. Government depository for Federal agency and Congressional publications for many years, the Library has collected and indexed thousands of reference publications in the areas of social sciences, economics, law enforcement, statistics, legislative histories and numerous other areas.

Located on the first floor of the Courts of Appeal Building, the Library is open to the public Monday - Wednesday and Friday 8:30 a.m. - 4:30 p.m., Thursday 8:30 a.m. - 9:00 p.m. and beginning in September 1979, Saturdays 9:00 a.m. - 4:00 p.m.

Board of Law Examiners

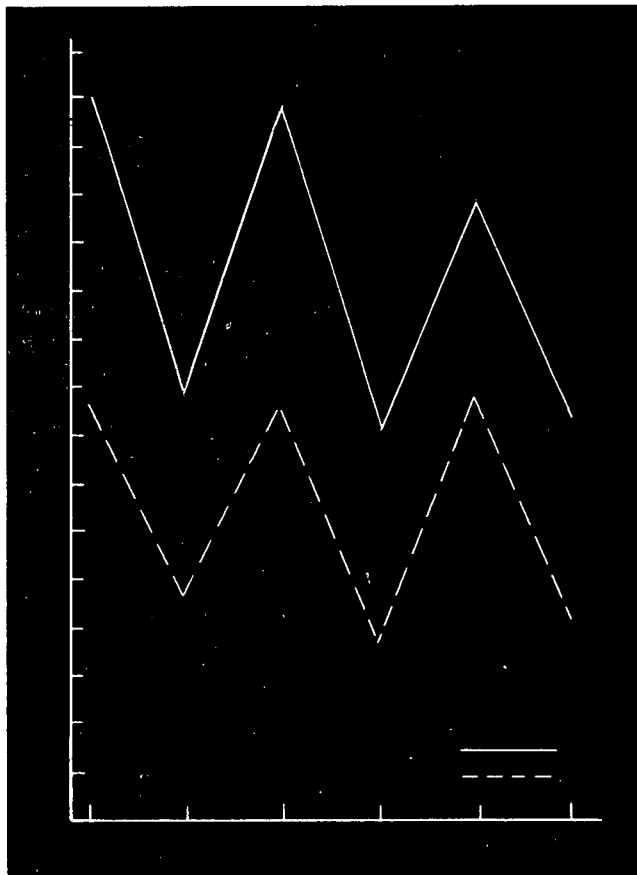
Originally in Maryland the various courts were authorized to examine persons seeking to be admitted to the practice of law. The examination of attorneys remained as a function of the courts until 1898 when the State Board of Law Examiners was

created. The Board is presently composed of seven lawyers appointed by the Court of Appeals.

The Board and its administrative staff administer bar examinations twice annually during the last weeks of February and July. Each is a two day examination of not more than twelve hours nor less than nine hours writing time.

Commencing with the Summer 1972 Examination, the Board adopted, and has used as part of the overall examination, the Multistate Bar Examination. This is the nationally recognized law examination consisting of multiple-choice type questions and answers, prepared and graded under the direction of the National Conference of Bar Examiners. The MBE test now occupies the second day of the examination with the first day devoted to the traditional essay examination, prepared and graded by the Board.

The results of examinations giving during 1978-79 were as follows: A total of 645 candidates



Numbers of candidates and successful candidates taking the bar examination.

sat for the July 1978 examination with 431 (66.8 percent) obtaining a passing grade while 423 sat for the February 1979 examination with 216 being successful (51.1 percent). Passing percentages for the two previous fiscal years were as follows: July 1976, 58.5; February 1977, 53.0; July 1977, 57.9; and February 1978, 48.3.

In addition to administering two regular bar examinations per year, the Board also processes applications for admission filed under Rule 14 which governs out-of-state attorney applicants who must take and pass an attorney examination. That examination is an essay type test limited in scope and subject matter to the rules in Maryland which govern practice and procedure in civil and criminal cases and also the Code of Professional Responsibility. The test is of three hours duration and is administered on the first day of the regularly scheduled bar examination.

At the attorney examination administered in July 1978, 32 new applicants took the examination for the first time along with five who had failed a prior examination making a total of 37. Thirty passed the examination which represents a passing rate of 81.1 percent.

In February 1979, 26 new applicants took the examination for the first time along with five applicants who had failed a prior examination, for a total of 31. All 31 applicants were successful.

Rules Committee

The Standing Committee on Rules of Practice and Procedure, usually called the Rules Committee, was originally appointed by an order of the Court of Appeals dated January 22, 1946, to succeed an ad hoc Committee on Rules of Practice and Procedure appointed by an order of the court dated March 5, 1940. Its membership comprises "... lawyers, judges, and other persons competent in judicial practice, procedure or administration." The Rules Committee meets regularly to recommend changes in or additions to the Rules of the Court of Appeals governing the practice and procedure of law and judicial administration. Its members serve without compensation.

Major activities of the Rules Committee during the year under review concerned the Reorganization of the Maryland Rules, and Rules relating to the death penalty and to continuing wage attachments.

By its 63rd Report to the Court of Appeals, the Rules Committee submitted proposed rules on the death penalty. The Rules responded to the recent legislation which reinstated the death penalty in Maryland. The Rules Committee modeled the rules on the statute and on the constitutional requirements set forth by the Supreme Court of the United States.

By its 64th Report to the Court of Appeals, the

Rules Committee submitted proposed rules on continuing wage attachments. These rules were proposed in response to legislation which amended the previous Maryland practice so as to allow a single attachment of the person's wages to remain as a continuing lien until his debts were paid.

By its 65th Report to the Court of Appeals, the Rules Committee submitted proposed emergency rules changes to Rule 713 (Charging Document—Amendment) and its MDR counterpart, which responded to the Court of Appeals holding in *Brown v. State* 285 Md. 105, 400 A.2d 1133 (1979).

Other significant changes recommended by the Committee were as follows: Amendments to MDR 723 (Initial Appearance) and MDR 728 (Procedure Upon Waiver of Jurisdiction by Juvenile Court) responded to the holding of the Court of Appeals in *Johnson v. State*, 282 Md. 314, 384 A.2d 709 (1978). Amendment of Rule 733 (Plea Agreement) and its MDR counterpart responded to the holding of the Court of Special Appeals in *McCormick v. State*, 38 Md. App. 442, 381 A.2d 694 (1978). Amendment of Rule 735 (Election of Court or Jury Trial) and the new BY Rules (Health Care Malpractice Claims—Action to Nullify Arbitration Award) were necessitated by legislation enacted in 1978. Amendment of Rule 736 (Motions Before Trial) filled a gap in the Criminal Rules. Amendment of Rule BG73 (Proceedings) resulted from a request by the Legislative Committee of the Judicial Conference.

Work on the reorganization of the Maryland Rules continued. This year the Rules Committee began the process of approving Rules recommended by the various Subcommittees. Rules tentatively approved so far include Title 1 (General) and Title 2, Chapters 100 (Commencement of Action and Process) and 200 (Parties).

The Rules Committee has also taken final action on the proposed rescission of Circuit and Local Rules and the proposal will be submitted to the Court of Appeals.

Attorney Grievance Commission

By Rule of the Court of Appeals the Attorney Grievance Commission was created in 1975 to supervise and administer the discipline and inactive status of lawyers. The Commission consists of eight lawyers and two lay persons appointed by the Court of Appeals for four-year terms. No member is eligible for reappointment for a term immediately following the expiration of the member's service for one full term of four years. The Chairman of the Commission is designated by the Court. Members of the Commission serve without compensation. The Commission appoints, subject to approval of the Court of Appeals, a lawyer to serve as Bar Counsel and principal executive officer of the disciplinary system. Duties of the Bar Counsel and his staff include inves-

tigation of all matters involving possible misconduct, prosecution of disciplinary proceedings, and investigation of petitions for reinstatement.

By the same Rule of Court, the Court of Appeals also established a Disciplinary Fund to cover expenses of the Commission and provided for an Inquiry Committee and a Review Board to act upon disciplinary cases. The Fund is composed of annual assessments upon members of the bar as a condition precedent to the practice of law.

During 1978-79 the Attorney Grievance Commission received 959 new matters to be considered, screening of which resulted in 449 docketed complaints. In addition, one matter from the previous year was re-opened. Within the same period the Commission disposed of 316 complaints, with 66 of those resulting in disciplinary action being taken against 42 attorneys. Of the latter number, 11 were disbarred, while an additional 5 received suspension and 25 received reprimands. One attorney was placed on an inactive status.

Summary of Disciplinary Action

	1976-77	1977-78	1978-79
Complaints Concluded	546	479	316
Disciplinary Action Taken:			
Disbarment	3	2	6
Disbarment by Consent	5	2	5
Suspension	4	4	5
Public Reprimand	1	1	7
Private Reprimand	12	12	18
Placed on Inactive Status	2	0	1
Dismissed by Court	0	3	1

Clients' Security Trust Fund

The Clients' Security Trust Fund was established by an act of the Maryland Legislature in 1965. The statute empowers the Court of Appeals to provide by rule for the operation of the Fund and to require from each lawyer an annual assessment as a condition precedent to the practice of law in the State of Maryland. Rules of the Court of Appeals that are now in effect are codified as Rule 1228, Maryland Rules of Procedure.

The purpose of the Clients' Security Trust Fund is to maintain the integrity and protect the name of the legal profession by reimbursing, to the extent authorized by these rules and deemed proper and reasonable by the trustees, losses caused by defalcations of the members of the Bar of the State of Maryland, acting either as attorneys or as fiduciaries (except to the extent to which they are bonded).

Seven Trustees are appointed by the Court of Appeals from the members of the Maryland Bar. One trustee is appointed from each of the first 5 Appellate Judicial Circuits and two from the Sixth Appellate Judicial Circuit. One additional Trustee is appointed by the Court of Appeals from the State at large. This trustee must be a lay person. Trustees serve on a staggered seven year basis. As each term expires a new appointment shall be a seven year term.

The Clients' Security Trust Fund completed its thirteenth year of operation on June 30, 1979 with total assets of \$730,186.54. During its existence it has processed 241 claims, 14 of which were filed during 1978-79. Claims paid or approved for payment have totaled in the aggregate \$375,000.00 of which amount \$48,000.00 was approved during 1978-79.

The Fund is fiscally sound and earned interest during 1978-79 in excess of \$56,000.00. The claims during this period, with the exception of one in five figures, have been relatively small. Several were based on retainer fees paid by the client and the subsequent failure of the attorney to take any action prior to ceasing practice either because of disbarment or suspension. This has been a recurring problem.

During the year the Trustees have refined the restitution procedures and are taking steps to have restitution made a condition of probation orders. In an effort to reduce computer costs, the Trustees and the Maryland State Bar Association have entered into a joint contract with Carey & Canon. Isaac Hecht, a Trustee, has recently been appointed a member of the ABA Committee on Clients' Security Trust Funds which will give the Fund the benefit of any developments among the forty-eight existing Funds. The Trustees have approved the releasing from time to time to the media of information regarding specific claims paid in the hope that this will give further publicity to the Fund's availability.

The number of practicing lawyers in the Fund list increased from 10,270 at the end of the previous year to 10,946 as of June 30, 1979.

Judicial Conferences

The Maryland Judicial Conference

Originally formed in 1945 by the Honorable Ogle Marbury, then Chief Judge of the Court of Appeals, the Maryland Judicial Conference presently exists by virtue of the provisions of Maryland Rule 1226, which directs it "to consider the status of judicial business in the various courts, to devise means for relieving congestion of dockets where it may be necessary, to consider improvements of practice and procedure in the courts, to consider and recommend legislation, and to exchange ideas with respect to the improvement of the administration of justice and the judicial system in Maryland."

The Conference consists of all the judges of the Court of Appeals, the Court of Special Appeals, the circuit courts for the counties, the Supreme Bench of Baltimore City, and the District Court of Maryland; a total of 203 judges. The Chief Judge of the Court of Appeals is its Chairman; the State Court Administrator is its Executive Secretary. The Conference meets annually in plenary sessions. Between plenary sessions, its work is conducted by an Executive Committee, consisting of judges elected by Conference members, and by approximately a dozen other committees appointed by the Chief Judge in his capacity as Conference chairman.

During Fiscal 1979, a number of the Conference's committees performed notable service consistent with the mandate of Maryland Rule 1226. The Bench/Bar Committee continued to serve as a forum for the exchange of ideas and information between lawyers and judges, and for promoting cooperation between bench and bar in improvement of the court system. A major activity of this committee consisted of a survey of Maryland judges with respect to the appeal or lack of it of judicial office. Tabulation of the results of this survey were still in process at the end of the fiscal year.

The committee also worked with the Conference's Executive Committee towards planning a future joint meeting between the Judicial Conference and the Maryland State Bar Association.

The Conference's Legislative, Juvenile and Family Law and Procedure, and Criminal Law Committees undertook major activities in the drafting of legislation submitted to the 1979 session of the General Assembly, in supporting this legislation, and in presenting views as to other bills relating to the court system. Some of the results of these activities are presented in the section of this Report entitled "1979 Legislation Affecting the Courts".

The Committee on Judicial Education and Training, with the support of the Administrative Office of

the Courts staff and a number of judges and others, conducted orientation sessions for new trial court judges; a series of three additional educational sessions in the winter and spring of 1979, one of which was attended by each member of the Conference, unless excused by illness or other good cause; and a day and a half of educational activity during the Conference's plenary session.

The Committee on Corrections continued to study the State correctional system and held a number of meetings with officials of the Department of Public Safety and Correctional Services.

The Public Awareness Committee undertook a continuing study of the public image of the court system and of relationships between the courts and the media. This committee is also studying the desirability of the creation of a public information officer position within the judicial branch, a concept already endorsed by the Conference's Executive Committee.

The 1979 plenary session of the Conference was held at the Hilton Inn in Pikesville, April 26-28, 1979. In addition to the educational activities already noted, several significant committee reports were considered and acted upon at the Conference's business session.

For example, the Conference adopted a Report of the Standing Committee on Ethics, proposing several changes in the Canons and Rules of Judicial Ethics. These recommendations have yet to be acted upon by the Court of Appeals.

The Committee on Sentencing submitted an extremely significant report, the major element of which was the recommendation that the Conference undertake a project to establish the use of sentencing guidelines in Maryland. Such guidelines have been established in several other states, and are looked upon as a desirable approach towards the reduction of undesirable disparity in sentencing. The full Conference endorsed a pilot sentencing guideline project, to be conducted in Harford, Prince George's, and Montgomery Counties and Baltimore City. This project will be funded by a federal grant and will begin in Fiscal 1980.

Also of special note was the Report of the Executive Committee. For several years, successive Executive Committees have grappled with the problem of how the Executive Committee and the Conference as a whole can more effectively assess the needs of the judicial branch, the improvement of the administration of justice, and the formulation of policy with regard thereto. It felt it particularly important to establish mechanisms and procedures that would draw all the judges in the State into this process, an objective especially important in view of the substantial size of the Conference and the difficulty of studying such major matters during a single annual plenary session. The Report of the Executive Committee resulted in the establishment by the full Con-

ference of a Committee on the Structure and Role of the Executive Committee. This committee will submit its recommendations to the 1980 Conference.

The Conference also established a new committee to deal with the difficult question of judicial compensation.

The Conference's 1980 session will be held at Hunt Valley Inn on May 8, 9, and 10, 1980.

Conference of Circuit Judges and Former Conference of Circuit Administrative Judges

The Conference of Circuit Judges was established on November 27, 1978, pursuant to Maryland Rule 1207. It succeeds the Conference of Circuit Administrative Judges which consisted of the Circuit Administrative Judges of the eight judicial circuits. The newly-formed Conference has sixteen members comprised of the eight Circuit Administrative Judges and one judge from each of the eight circuits elected every two years by the judges of his circuit. The Chairman is elected by the Conference, likewise for a two-year period. During Fiscal 1979, the former Conference met twice; the newly-created Conference three times. The following summarizes some of the important matters considered and acted upon by both bodies during this period.

Expanded Circuit Court Participation in Decision-Making

The establishment of the Conference of Circuit Judges is an attempt to address a concern of the Maryland circuit court bench, that some voices were not being heard and problems were not being aired sufficiently by the former Conference of Circuit Administrative Judges, a body consisting solely of individuals appointed by the Chief Judge of the Court of Appeals. Because it includes members elected by their colleagues it is more broadly representative of the circuit court segment of the judiciary and is viewed as being in a position to give the circuit courts a voice in the administration of the judicial system.

As with the former Conference, it will continue to meet on a regular basis "for the purpose of exchanging ideas and views with respect to the circuit courts and the improvement of the administration of justice."

Judicial Compensation

The need to provide an adequate level of judicial compensation was a focus of attention of the new Conference during the last fiscal year. The Conference worked closely with a committee of distinguished members of the Maryland State Bar Asso-

ciation to urge the Governor and the General Assembly to provide adequate salaries for judges. The objective was not fully achieved last year and the effort is continuing.

At the urging of the Chief Judge of the Court of Appeals the former Conference of Circuit Administrative Judges developed a procedure for sharing responsibility between circuit and District Court judges respecting the issuance of search warrants, the execution of orders authorizing wiretap surveillance, and authorizing emergency admissions to mental health facilities under Article 59, Section 22, of the Maryland Code. Trial judges frequently are contacted during off-court hours to act on requests for action in these areas. Therefore, recognizing the need to share responsibility and work cooperatively, the former Conference agreed to work with the District Court in this regard, and in most instances without the need of structuring a formal duty roster.

Urging an Active Role by Law Enforcement in Emergency Admissions

As a direct outgrowth of the former Conference's initial discussion concerning emergency admissions under Article 59, Section 22 and which was followed up by the new Conference, law enforcement agencies are being strongly urged to take a considerably more active role in having its personnel act as petitioners in those situations where there is reason to believe that a person is mentally disordered and acting in such a way as may require emergency treatment at an appropriate mental health facility. In conjunction with this action, both bodies have requested the Maryland Department of Health and Mental Hygiene to develop and implement a statewide educational and training program for law enforcement personnel regarding the responsibilities and obligations under the statute to act as petitioners. The Department has given assurances that it will move in this direction.

Increasing Support to the Courts by the Juvenile Services Administration and the Social Services Administration

The new Conference met with officials of the Maryland Juvenile Services Administration and the Social Services Administration to discuss severe staffing problems and delays in the completion of custody investigations requested by circuit court judges. Apparently, staff shortages have split the responsibility for conducting custody investigations between the Juvenile Services Administration and the Social Services Administration.

In conjunction with this problem the Conference expressed concern on the failure of the Juvenile Ser-

vices Administration to comply with Article 52A, Section 16, requiring the Administration to develop a formula for determining appropriate staff support to the courts. While the officials pled their case as to staff shortages, the Conference took the firm position that the statute was intended to require that adequate services be provided. Though the Conference urged strongly that this be done, it was not given any firm assurances as to what if any and when steps might be taken in this regard.

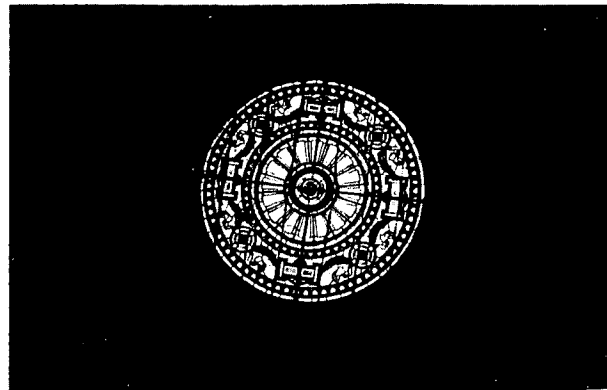
The Social Services Administration, likewise plagued with staff shortages, expressed concern that there is no statutory mandate that it provide certain specific services to the courts but instead a rather broad range of services. It was the administration's position that there needs to be a clear strategy with a legal mandate if it is to carry out its responsibility placed upon it by the court.

Payment of Court-Appointed Counsel Fees — The Judicare Program

Payment procedures for court-appointed counsel fees in civil proceedings came before both bodies in the twelve-month period ending June 30, 1979. It was brought to the Conferences' attention that counsel appointed to represent indigent clients that may be

eligible for free legal services under the State's "Judicare" Program were not complying with the regulations promulgated by the Social Services Administration. The "Judicare" Program is administered by the Maryland Legal Services Division of the Administration.

More than once, court-appointed counsel rendered services, concluded the case, and the court ordered payment of a fee but "Judicare" either denied or resisted payment because regulations were not followed. Specific situations called to the Conferences' attention involved counsel appointed to represent an alleged disabled person under Section 13-705 of the Estates and Trust Article of the Maryland Code. Section 13-705(d) provides in part that if the person is indigent, the State pays the attorney's fee, but it does not specifically provide the source from which it is to be paid. The Conference agreed to advise circuit court judges to inform counsel that they must, before services are rendered to an eligible client, execute a contract for payment of services with the local department of social services. At the urging of the Conference, the Social Services Administration asked the Maryland State Bar Association to inform its members of these regulations.



Appointment, Discipline and Removal of Judges

To be eligible for a judgeship, the Constitution provides that a person must be: a citizen of Maryland, a resident of the State of Maryland for at least five years, a resident of the particular circuit, district, or county from which he is elected or appointed for at least six months, a qualified voter, qualified to practice law in Maryland, and at least 30 years old. He must also be selected from among those lawyers "who are most distinguished for integrity, wisdom, and sound legal knowledge."

Under the Maryland Constitution, at the initial occurrence of a judicial vacancy, or upon the creation of a new judgeship, the Governor normally is entitled to appoint a person to fill the office.

Judicial Nominating Commissions

Before 1971, Maryland Governors exercised the appointment power, seeking only such advice as they might wish to obtain from bar associations, legislators, lawyers, or others. But because of dissatisfaction with this process, as well as concern with other aspects of judicial selection and retention procedures in Maryland, the Maryland State Bar Association for some years pressed for adoption of one or another variation of what has come to be known as "merit selection" procedures.

These efforts bore fruit in 1970, when former Governor Mandel promulgated two executive orders, one establishing a single State-wide judicial nominating commission to propose persons for appointment to the appellate courts, and the other establishing eight regional nominating commissions, each to propose names of persons for appointment to the trial courts within a particular geographical area. These nine commissions began operations in 1971, and since their implementation, the Governor has filled all judicial positions subject to his appointing authority from lists of nominees submitted by a nominating commission.

As presently structured under an executive order issued by Governor Hughes on June 8, 1979, each of the nine commissions consist of six lawyer members elected by other lawyers within designated geographical areas; six lay members appointed by the Governor; and a chairperson, who may be either lawyer or lay person, appointed by the Governor. The State Court Administrator acts as a non-voting Secretary to all commissions, and the Administrative Office of the Courts provides all commissions with staff and logistical support.

When a judicial vacancy occurs or is about to occur, the State Court Administrator notifies the ap-

propriate commission and through announcements in the press and to interested bar associations, seeks applications which are distributed to the commission members as filed.

After the filing deadline for the vacancy has occurred, the commission meets and considers the applications and other relevant information, such as recommendations from bar associations or individual citizens. Under Governor Hughes's executive order, no name may be nominated by a commission unless the individual has been interviewed by the commission or a commission panel. As a practical matter, this means that almost all candidates will be interviewed - a practice previously adopted informally by all but two of the commissions.

The list of "legally and professionally most fully qualified" applicants that is submitted to the Governor by each commission is prepared by secret written ballot; no commission may vote unless at least nine of its 13 members are present; the name of no applicant may be included on the list unless that applicant has the affirmative vote of not less than seven members of the commission. As indicated, under the current executive order, the Governor may not appoint a judge except from a commission list.

During Fiscal 1979, the nine commissions were somewhat less busy than they were during Fiscal 1978. Some 14 commission meetings were held; less than half the number held in Fiscal 1978 and four fewer than the number held in Fiscal 1977. A total of 14 judicial vacancies both occurred and were filled during the fiscal year. The accompanying table gives comparative statistics over the past four fiscal years.

As the figures indicate, problems still exist with respect to relatively small numbers of applicants and small numbers of fully qualified nominees. While the figures vary with respect to court level and geography, it is interesting to note that for the fiscal years 1976, 1977, and 1978, there were an average of 10.3 applicants per judicial vacancy and 4.0 nominees per vacancy. In Fiscal 1979, that figure dropped to about 6.7 applicants per vacancy and 2.9 nominees per vacancy. This occurred despite the fact that 25 people applied for a single vacancy on the Court of Special Appeals. On the other hand, for some other vacancies, involving reappointment of a sitting judge, the number of applicants was very small, as is usually the case when a sitting judge indicates that he is prepared to accept reappointment.

Nevertheless, these figures suggest that problems of judicial compensation and at the circuit court level, the necessity for facing election, may be factors that continue to discourage some applicants from placing their names before the commissions.

JUDICIAL NOMINATING COMMISSION STATISTICS

Judicial Vacancies Occurred and Filled in Recent Fiscal Years

		Court of Appeals	Court of Special Appeals	Circuit Courts/ Supreme Bench	District Court	TOTAL
FY 1976	Vacancies	1	0	12	7	20 ^a
	Applicants	10	0	80	74	164
	Nominees	5	0	37	23	65
FY 1977	Vacancies	0	0	5	13	18 ^b
	Applicants	0	0	31	93	124
	Nominees	0	0	12	31	43
FY 1978	Vacancies	1	3	18	10	32 ^c
	Applicants	13	25	131	159	328
	Nominees	5	15	49	42	111
FY 1979	Vacancies	1	1	3	9	14 ^d
	Applicants	4	25	17	47	93
	Nominees	4	6	8	23	41

^aIn Fiscal 1976, 4 additional vacancies occurred but were not filled during the fiscal year. Three additional vacancies that occurred in a prior fiscal year were filled.

^bIn Fiscal 1977, three additional vacancies occurred but were not filled until FY 1978. Three additional vacancies that occurred in FY 1976 were filled.

^cIn Fiscal 1978, all vacancies that occurred during the year were filled. Three additional vacancies that occurred in FY were filled.

^dIn Fiscal 1979, 2 additional vacancies occurred during the fiscal year, but were not filled during that year.

Removal and Discipline of Judges

Every Maryland Judge is subject to mandatory retirement at age 70. In addition, judges of the appellate courts run periodically in non-competitive election. A judge who does not receive a majority of the votes cast in such an election is removed from office. Judges in the circuit courts and in the Supreme Bench courts must run periodically in regular elections. If a judge is challenged in such an election and the challenger wins, the judge is removed from office. District Court judges face periodic Senate reconfirmation. Such a judge who is not reconfirmed by the Senate is removed from office. In addition, there are from five to six other methods that may be employed to remove a judge from office:

1. Impeachment.
2. The Governor may remove a judge "on conviction in a court of law for incompetency, willful neglect of duty, misbehavior in office, or any other crime . . ."
3. The General Assembly may remove a judge by two-thirds vote of each House, and with the

Governor's concurrence, by reason of "physical or mental infirmity . . ."

4. The General Assembly may remove a judge, with the concurrence of two-thirds of each House, provided that the judge received notice of the charges and had an opportunity to defend himself.
5. The Court of Appeals may remove a judge upon recommendation of the Commission on Judicial Disabilities.
6. Article XV, § of the Constitution, as adopted in 1974, may provide a sixth method, as to elected judges. It provides for automatic suspension of an "elected official of the State" who is convicted or enters a nolo plea for a crime which is a felony. If the conviction becomes final, the officer is automatically removed from office.

Despite the availability of other methods, only the fifth method has actually been used within recent memory. Since use of this method involves the Commission on Judicial Disabilities, which also has the power to recommend discipline less severe than removal, it is useful to examine that Commission.

The Commission on Judicial Disabilities

The Commission on Judicial Disabilities was established by constitutional amendment in 1966 and strengthened in 1970; its powers were further clarified in a 1974 constitutional amendment. The Commission is empowered to investigate complaints, conduct hearings, or take informal action as it deems necessary, provided that the judge involved has been properly notified. Its operating procedures are as follows: The Commission conducts a preliminary investigation to determine whether to initiate formal proceedings, after which a hearing may be held regarding the judge's alleged misconduct or disability. If, as a result of these hearings, the Commission, by a majority vote, decides that a judge should be retired, removed, censured or publicly reprimanded, it recommends that course of action to the Court of Appeals. The Court of Appeals may order a more severe discipline of the judge than the Commission recommended. In addition, the Commission has the power in limited situations to issue a private reprimand.

During Fiscal year 1979, 38 complaint matters were opened by the Commission on Judicial Disabilities. Two were initiated by the Commission itself, four were filed by attorneys, and the remainder by private individuals.

While three of the complaints focused on more general judicial policy or conduct, the remainder alleged misconduct on the part of particular judges

at various levels of the Maryland judiciary. Thirty complaints attacked the conduct of judges presiding at the circuit court level, four were directed at those sitting in District Court, one at an Orphans' Court judge and one at a judge sitting on an appellate court. Some complaints named more than one judge; and more than one complaint named the same judge for alleged misconduct on different occasions.

Seventeen of the complaints arose out of litigation concerning domestic issues such as divorce, child custody, visitation rights and alimony payments. Ten complaints were from criminal trial defendants and another six were the result of civil litigation. The remaining five were of a general nature not falling into any specific category.

The 38 complaints represent, however, only those allegations that are deemed to be formal matters by the Commission. Many complaints that are received both in writing and orally do not present charges that are within the Commission's jurisdiction. They are, however, answered and included as general miscellaneous items. Many individuals attempt to use the Commission as an appellate court to rehear matters already decided.

The Commission meets as a body irregularly, depending upon the press of business. Its seven members are appointed by the Governor and include four judges presently serving on the bench, two members of the bar for at least 15 years, and one lay person representing the general public.



State of the Judiciary Message Delivered by Chief Judge Robert C. Murphy to a Joint Session of the General Assembly of Maryland at Noon on January 24, 1979

This is the fourth time in the last six years that I have been invited to address a Joint Session of this distinguished body on the State of the Maryland Judiciary — a fact plainly indicative of the Legislature's infinite capacity for inflicting suffering upon itself. It is nevertheless an occasion I specially relish because of the opportunity it affords me, as the administrative head of the Judicial Branch of Government, to **focus attention on problems of mutual concern to legislators and judges alike in the administration of our judicial system — problems which, because they implicate the legislative process, are beyond the competence of judges alone to resolve.** A distinguished legal scholar many years ago said that popular dissatisfaction with the administration of justice is as old as the law itself and will exist with respect to any system of law, regardless of how well it is administered. It is therefore much like the weather, always to be condemned by some who will not like it no matter what it is, although not always with good reason. But admittedly, there is reason — good reason — for constructive criticism of our court system and no one better appreciates or understands our deficiencies and shortcomings than the 196 trial and appellate judges of Maryland, who preside over the multitude of courtrooms in our complex judicial network.

I say with pride that no one has labored harder than the judges of Maryland, and the nonjudicial personnel who support our judicial system to resolve the seemingly insurmountable problems which at times confound and threaten to engulf us as we proceed with our daily operations.

Each year the Judiciary publishes a comprehensive report, available to every legislator, which spreads before the public a detailed accounting of the work of the Judicial Branch of Government. It hardly qualifies as bed-time reading, and because the report is given practically no media exposure, the public has little grasp of the magnitude of our operations. For example, to know that last year 1,317,737 new cases in all categories were filed in the trial courts of Maryland is a staggering statistic — a massive caseload, difficult to contemplate.

But it is not my purpose today to dazzle you with a statistical portrait of the Judiciary's annual workload; rather, I prefer to place before you the need for improvements in the Judicial Branch which, as I said at the outset, is beyond the power of the third branch of government to effect. It is therefore necessary to call upon the Executive and particularly the Legislative Branches for assistance, and it is in this spirit — a spirit of a joint approach to the solution of common problems — that I speak to you today.

The state's largest trial bench of general jurisdiction — the all-important Supreme Bench of Bal-

timore City — is a textbook example of the worst court organization imaginable. Created by the Constitution of 1867, the Supreme Bench now consists of three civil law courts, two equity courts, and a criminal court exercising varying degrees of duplicating and overlapping jurisdiction and authority. These six courts, rather than one, were created to provide, it is said, a repository of patronage for each of the six councilmanic districts of Baltimore City. Whether this is so or not, it can scarcely be advanced as a reason for retaining such a cumbersome and awkward court structure in the busiest general jurisdiction trial court of the state — for truly it is an administrative nightmare and a totally unnecessary drain on the taxpayers.

The work of the Supreme Bench is not just of importance to the citizens of Baltimore, for that great city is not just another community in our state. It is the industrial, the financial, the commercial hub for much of Maryland and that which adversely affects Baltimore City must inevitably affect a majority of our citizens whether living within or without the city limits.

In fiscal 1978, almost 97,000 cases were filed in these six courts. Only by dint of almost superhuman efforts on the part of the judges and nonjudicial personnel of those courts was the system kept from collapsing completely and the backlog from growing at an even more alarming rate.

Recognition of the problems produced by the archaic structure of the Supreme Bench is not new. In its Final Report in 1942, the Bond Commission proposed that the Supreme Bench courts be consolidated into a single court. In 1953, the Burke Commission made a similar recommendation, saying: "The present multiplication of courts in Baltimore City is indefensible. It is a monument to inertia and an utterly indefensible resistance to change." To the same effect were the recommendations made by the Constitutional Convention in 1967, the Commission on Judicial Reform of 1974, and the Governor's Commission on Circuit Court Unification in 1975 and 1976.

The Supreme Bench should indeed be structured as a single circuit court and so named and operated like the circuit courts in the counties throughout the rest of the state, which include the busy circuit courts in such major metropolitan jurisdictions as Baltimore County, Montgomery County, and Prince George's County — some of which are attaining a population close to that of the city itself. Legislation to achieve this objective was unsuccessful in 1976 and 1977, but again I echo the sentiments so forcibly expressed by Governor Hughes in his State of the State address last Friday that you take a fresh look at this problem and provide the citizens of Baltimore and, the state as a whole, with a court structure that

is conducive to the efficient and effective administration of justice. Not only would such legislation result in better administration when fully implemented, it could produce savings to the hard pressed taxpayers of Baltimore City of between \$500,000 and \$600,000 per year.

While court organization is a fundamental, although perhaps unexciting factor in good court administration, everyone recognizes the need for a well-organized court system. But that well-organized system must be staffed by judges drawn from among Maryland lawyers who are most outstanding for their legal learning, integrity, judicial temperament, and conscientiousness. **Yet we are experiencing real difficulty in recruiting the kind of judges we need, particularly at the circuit court level.**

One illustration of this fact appears from the small number of applicants for circuit court and Supreme Bench judgeships. In Fiscal 1976, 1977 and 1978, the average number of applicants for each of these judgeships varied from 6.7 to 7.3. Even more telling, however, is the fact that during the same three fiscal years, the average number of nominees per circuit court vacancy presented to the Governor was 3.1, 2.4, and 2.9, respectively. In Baltimore City, where the judicial nominating commission is supposed to submit a minimum of at least five names for each vacancy, there was only one occasion within the past two years when that commission was able to submit as many as five names of candidates which it deemed qualified. During that period of time, the commission submitted nominations for eight vacancies on the Supreme Bench.

There are a number of reasons for lack of interest in judicial office. One of them, unquestionably, is economic. **Judicial compensation has totally failed to keep pace with increases in the cost of living and with the earnings of the most capable members of the Bar.** The need for substantial increases in judicial compensation is great, both to attract good men and women to the bench and to keep on the bench those we now have. The Maryland State Bar Association, acting through a special committee of lawyers, has expressed alarm at the present inadequate compensation paid to judges, and has made recommendations to Governor Hughes and proposes to make the same recommendations to you — recommendations that have my support, and the support of most judges.

Another very substantial obstacle to the recruitment of judges at the circuit court/Supreme Bench level is the current election process. Beginning with the organization of the District Court in 1971, Maryland has steadily moved away from the requirement of contested elections for judges. The constitutional amendment establishing the District Court provided that its judges should be appointed by the Governor with the advice and consent of the Senate and continued in office through a process of further periodic senatorial approval. In 1976, a constitutional amendment was adopted ending contested political elections for judges of the two ap-

pellate courts. These judges are now appointed by the Governor, confirmed by the Senate, and subsequently appear on the ballot for retention or rejection by the people based solely on their judicial records.

Thus, it is only the judges of the circuit courts who must still engage in the contested election process. This is not a process appropriate to the selection or retention in office of judges. In the first place, unlike legislators, for example, a judge has no constituency; he does not represent a community or any particular group. Rather, he is an impartial arbitrator who must judge equitably between disputing individuals and groups, or between the State and a criminal defendant, without favoring either one. His only constituency should be the rule of law, fairly and even-handedly applied to the facts of a given case. Moreover, the general election process is not conducive to identification of the qualities most important in a good judge. And even if there is no actual impropriety or obligation involved, a judge who must obtain financial support to run, get his name slated on the appropriate tickets, and indulge in the give and take of political gatherings is inevitably seen by many as incurring obligations wholly inconsistent with the nature of judicial office. It should be noted, too, that the necessity for campaigning imposes real time constraints on a judge. Substantial court work goes by the board because of the necessity for engaging in campaign activity over an extended period of time.

These are all good reasons for the abolition of contested elections at the circuit court level, in accordance with the urgings of many bar association and other groups that have studied the problem. There is another reason, and this is directly related to the dearth of applicants for judicial office that I have just mentioned. Many a lawyer with all the qualities needed to make a good judge simply will not give up the financial reward of a successful law practice, assume the bench through appointment, and then face the uncertainty of a contested political election. As a matter of principle and as a matter of pragmatics, contested elections at the circuit court level should be abolished.

I advocate the establishment of a system for selecting circuit court and Supreme Bench judges modeled on that now operating for judges of the appellate courts. This retains a meaningful elective feature, but one that is not likely to be misinterpreted by the public, be disruptive to the judge's judicial functions, or inhibit capable men and women otherwise interested in judicial office.

I have stressed the need for capable judges in our court system. I now add a word as to the need for adequate numbers of judges. While it is obvious to all that a court system cannot function without judges, deciding on precisely how many are needed is a difficult task. Various states have used various measures in attempts to find the answer. Over a period of several years, we have applied a statistical analysis of judgeship needs based, in the last

analysis, on projected case filings. This analysis is combined with an additional and more subjective analysis performed by the administrative judges in the affected jurisdictions. At the request of the Legislative Policy Committee, I have submitted a recommendation as to new judgeship needs for Fiscal 1980. It is a conservative recommendation, because our formula is conservatively structured, and my recommendations do not always coincide with those of the administrative judges. I see no need for additional appellate or District Court judges this year. I do certify a need, however, for seven additional circuit court judges in the following jurisdictions: two in Anne Arundel County, and one each in Charles, Montgomery, Prince George's and Worcester Counties, and in Baltimore City. This need is based partly on the fact that between 1972 and 1978, circuit court filings increased 39% while circuit court judgeships increased only by 13%. I hope you will support these additional judgeships to assure the reasonably expeditious processing of cases in our courts. And I hope, too, that you will support the concept of HB 105, which formalizes the recommendation procedure that has in fact been used this year. This procedure does not bind the General Assembly in any way, but it does at least permit the Judiciary to present to you, in organized fashion, its own conclusions as to new judge needs — conclusions which take into account the availability of retired judges for emergency service.

Better court structure, good judges, adequately compensated and in sufficient numbers — all these will help make the Maryland Judiciary better able to fulfill its obligations to Maryland's citizens. And it is to the General Assembly we must turn, in the first instance, in efforts to obtain them. **In the area of improving internal operating procedures, however, the courts themselves can and do take the initiative and innovate.** We have done this, for example, in the field of traffic adjudication. More citizens are exposed to our judicial system through appearances in traffic court than in any other way. In Fiscal 1978, over 683,000 traffic cases were processed by the District Court of Maryland. Handling any such large volume of matters is difficult, but the way in which traffic cases have traditionally been handled in the courts has produced special problems. Two years ago I advised you of our embryonic efforts to gain control over the vast motor vehicle dockets in the District Court through the use of computers, so that sessions of the court could be scheduled for the maximum convenience of our citizens and police agencies, and in a manner that would permit us to make the greatest possible utilization of our allotment of judicial and clerical manpower. A prototype of this system has been in existence in Montgomery County for more than a year, funded by the National Highway Safety Administration, and in the opinion of all involved in this project, it has proved to be a resounding success. Indeed, just two weeks ago we were advised by ranking representatives of the Federal Highway Safety Administration that this ap-

pears to be the most advanced system yet devised for the efficient processing of motor vehicle violations in the nation, and we have reason to believe that those officials will urge the other forty-nine states to pattern their own operations after that which we have created in Maryland. In our budget requests this year we are seeking substantial funds to implement this system throughout the state. Your favorable action on our request will not only enable us to improve upon our own operations, but also improve the effectiveness of Maryland's police agencies by substantially reducing the amount of time that officers now spend in court away from their policing duties awaiting the trial of cases in which they are involved.

In all our efforts to utilize computer techniques in processing motor vehicle cases, we have as our goal a system wherein every case scheduled for trial can receive the most careful attention of the presiding judge. The system contemplates no substitution of computers for judge-made decisions and is designed to permit our judges to give more time and attention to each case before the court. I turn now to a number of matters of narrower scope, but of special public concern. These deal mainly with the criminal law field. When a person charged with crime is convicted in the District Court, whether on a plea of guilty, or otherwise, he generally has a right to what is known as a trial de novo at the circuit court level before another judge and even a jury, if requested. This means that the case is tried all over again from the beginning; in other words, the State must put on its full case a second time, and again produce its witnesses. If witnesses die, become otherwise unavailable, or have lapses of memory between the first trial and the de novo trial at the circuit court, a different result may be reached. Thus, there is a strong incentive for persons convicted in the District Court to avail themselves of this second proceeding. A further incentive is provided by the fact that even if there is a second conviction after the de novo trial, the circuit court, under our existing law, can impose a sentence no more strict than the sentence imposed in the District Court. Thus, the convicted defendant has everything to gain by the second trial and absolutely nothing to lose and as a result our circuit court dockets are badly clogged. I favor the abolition of de novo appeals, as do most judges, but that view is not generally shared by defense lawyers. And past experience has shown that there is very strong legislative resistance to total abolition. Thus, I should like to suggest an intermediate approach that might well deter the filing of frivolous de novo appeals. Since there is no constitutional impediment to your doing so, **I suggest, as the Maryland Judicial Conference has previously proposed to you, that the law be amended to permit an increase of sentence after conviction at a de novo trial in appropriate cases.** This would preserve the right to trial de novo, but is likely to reduce the numbers of such trials because a defendant who really has no case to present might be deterred from seeking one in view of

the possibility of an increased penalty. This consideration of sentencing following *de novo* appeals leads me to the whole subject of sentencing — a judicial function of the deepest concern to all judges. In Maryland, as in the rest of the nation, there has been continuing debate between those who claim that the sentences imposed by judges are not harsh enough and those that claim they are too harsh. If there is one facet that is not subject to general disagreement, it lies in the fact that different judges in different courts will frequently impose what appear to be very different sentences with respect to offenses and offenders who appear to be quite similar. Although the similarities are often nonexistent when the facts are closely examined, these **apparent variations in sentencing patterns give much concern to the public and to judges, not to mention, of course, the offenders themselves.** Some see determinate or flat sentencing as a possible solution. Several states are experimenting with these procedures, which essentially involve reducing judicial discretion and often abolition of the parole commission or parole board, so that a person charged with a specific offense is given a specific sentence, or one within very narrow limits (usually lesser limits than those now provided by law). He then serves the sentence imposed without the possibility of parole, the length of the sentence being reduced only by such "good time" as he may earn while he is incarcerated.

Determinate sentencing may have its advantages, but it may well be an example of over-kill in that it may deprive a judge of too much discretion. Offenses, even when given the same name, are not performed under identical circumstances nor by people who are identical, and from the point of view of both the public and the individual charged with crime, there needs to be a certain latitude in the dispositions that can be made. On the other hand, efforts to limit that latitude to some degree are desirable. A specially appointed Committee on Sentencing of the Maryland Judicial Conference has studied these and related problems, and has proposed a pilot program involving the use of sentencing guidelines by Maryland's trial judges in designated jurisdictions. Under the sentencing guideline procedure, data are gathered as to the sentences imposed by judges throughout the state with respect to specific offenses and specific types of offenders. On the basis of these data, grids are prepared for each offense in a way that allows a judge to take account of the offense, the circumstances under which it was committed (for example, whether or not it involved personal violence), and relevant aspects of the offender's background (such as presence or absence of a prior criminal record). Application of these factors produces a recommended sentence for that particular individual and offense, the recommendation usually being stated as something between a maximum and minimum number of years. All of the recommendations would be consistent with present statutes pertaining to penalties for the various

criminal offenses.

A judge would normally be expected to impose a sentence suggested by the guidelines, thereby greatly reducing undesirable sentencing disparity. However, the judge would be free to depart from the guidelines, by imposing either a lesser or a greater sentence, within the limits permitted by law. In such a case, he would be required to state the reasons for departure from the guidelines, thus providing an explanation for the apparent disparity.

I agree with the Committee on Sentencing that this system has promise. We are about to implement an experiment with it, and would like the opportunity to do so under the present statutory provisions as to sentencing. We think that the results of the project will be of value to future General Assemblies as they explore improvements in sentencing procedures and philosophies. In another context, the sentencing of criminal offenders is a matter of great concern to Maryland trial judges. According to a recent highly professional national survey conducted for the National Center for State Courts, the public looks upon judges as gatekeepers of the prison system and holds them directly accountable for protecting society from criminals, so much so that 43% of the public believes that it is the responsibility of courts to reduce violent crime. Hence, it is the courts that bear the brunt of the public's criticism for what it sees as a "revolving door" policy of imprisoning offenders — a policy not calculated to protect society from the ravages of the criminal element in our midst. For their part, judges decry the lack of control they have over the period of imprisonment that a convicted offender will actually be required to serve. The root cause of much of the judges' frustration in this regard is because our penal facilities, both state and local, are badly, hopelessly overcrowded and truly viable alternatives to incarceration do not now exist to a degree sufficient to permit alleviation of prison overcrowding. Permit me to be more specific. In the early years of this decade, the population of the state's penal facilities began to swell, not because judges suddenly and arbitrarily began to sentence more offenders to prison; rather it was because more and more criminals were being apprehended by the police, tried and convicted in the courts; and because of the seriousness of their offenses, and their frequently demonstrated recidivistic tendencies, as evidenced by extended criminal records, it was necessary that they be incarcerated in secure penal facilities for the protection of society. In 1971, the General Assembly enacted a program primarily for incarcerating less serious offenders — those who committed crimes against property, who were not physically dangerous, and who could be rehabilitated — in a network of small community corrections centers to be regionally located in various political subdivisions across the state. While you appropriated funds to construct these facilities, the then existing law afforded the political subdivisions an absolute veto over the site selection process and as a result, few of these facili-

ties were actually built. By 1974, the population of the state's penal facilities was at the highest level in their history, far beyond their rated capacity, and growing at a rapid rate. Because the Division of Parole and Probation was not adequately staffed to provide the necessary supervised parole and probation services, the judges of Maryland and the parole authorities were reluctant to grant probation or parole to offenders who might otherwise have qualified for those programs. By formal resolutions in 1974 and 1975, the Judiciary asked the Executive and Legislative Branches to take cognizance of the crisis in corrections, to allocate additional resources to the Division of Parole and Probation, and to eliminate the local veto over site selection and thus assure that this body's commitment to the community corrections concept would be implemented and such facilities made available as an alternative to more conventional imprisonment. We urged such action because more and more offenders were appearing in court accused of violent and other serious offenses both against persons and property — offenses calling for stiff prison sentences to protect the public, to satisfy the public demand for retribution, and hopefully to deter others from committing similar offenses.

When the Division of Correction finally ran out of medium and maximum security space, new facilities to add to its capacity were mostly still in a planning stage. Double celling of inmates became necessary as the State's Master Plan for Corrections was being developed; that plan, quite predictably, called for the expansion of the system by the construction of a new facility to house 890 inmates — a facility deemed by the planners to be "crucial to the success of the entire Master Plan." This body responded to the crisis by appropriating \$28,000,000 to construct the new facility. By this time the Attorney General of Maryland was locked in mortal combat in the federal courts with those who claimed that Maryland's penal facilities were so ancient and overcrowded as to be inhumane and subject the inmates to unconstitutionally cruel and unusual punishment. The Attorney General urged that the federal court not order the wholesale release of inmates, but that the State be given time to construct the new facility. As a result, the federal appellate court, after finding "that the overcrowded conditions cannot be completely eliminated without the construction and utilization of a new facility" agreed to hold its hand until June 1, 1980 to permit the State to implement its detailed Master Plan.

Notwithstanding this painful background, it is now being suggested to the public and to this body that a new prison may not be needed after all; that the problem all along has not been a lack of space in the prisons, but too many criminals being committed to these facilities by the judges; that 40% of the sentences imposed by judges are for two years or less and, because these individuals are not dangerous to society, they should be placed in community corrections centers or on supervised probation; that a lid, a

quota, a "not to be exceeded" figure, must be placed on the total number of criminals that the judges of Maryland can sentence to secure incarceration; and that in any event, despite the lateness of the hour, the matter requires further study.

I claim no expertise in prison administration, and I do not deprecate the sincerity of those who espouse this newly emerging philosophy. But simple mathematics, past experience, reason and logic tell me that what is being proposed may be a "pie in the sky," "Alice in Wonderland" solution. It is not a fact that 40% of the sentences are for two years or less; the actual figure is 11%. The 40% figure relates itself to persons released on parole within two years of incarceration — paroles made necessary because of the overcrowded conditions of the prisons. Even if community corrections centers are constructed in sufficient numbers — which is not an immediate likelihood — and even if our capacity for intensive supervised probation is greatly enhanced — both objectives long supported by the Judiciary — the need for additional secure penal facilities to incarcerate hard-core, recidivistic, and other serious criminal offenders to protect society would seem apparent — and this is so whether the offender is physically dangerous or not, or whether the crime was committed against the person or against property. In the first place, well over 1/3rd of our medium and maximum security prison capacity is over 100 years old and on that account alone will require replacement in the not too distant future. But more importantly, **so long as punitive confinement for criminal transgressions remains a viable reason for secure incarceration — so long as the deterrence theory of punishment retains its validity — so long as a moratorium on arrests and convictions is not to be declared — the flow of felons into our penal institutions will continue without abatement.** It could not be otherwise unless this body, by law, declares that the public demand for protection is not an appropriate basis for incarceration, or that the deterrence theory of sentencing is to be discarded by the judges of Maryland. Accordingly, I ask you to remember that imagination is one thing; knowledge, based on experience, is quite another; and that facts do not cease to exist because they may be ignored.

To conclude these remarks, I make the observation that over the past ten years particularly the General Assembly of Maryland has been most responsive to judicial-branch requests and indeed that is always heartening. Time will not permit discussion of many of our other continuing concerns — concerns which we have urged upon earlier legislatures and which I will urge again when the governmental and political climate will best accommodate our proposals for needed judicial reform. Whether we are successful or not in our efforts, this body has always voted up or down on the perceived merits of the proposal, without fear or favor. More than that we cannot ask. On behalf of all members of the Judicial Branch of Government, I thank you for your kind invitation today.

Mini-Report on the State of the Maryland Judiciary Delivered to the Maryland State Bar Association Convention in Ocean City June 13-16, 1979.

This is the third time in the last four years that I have been invited to address the members of this Association at its annual meeting. And while I look upon the occasion as one of high personal privilege, on your part it is unquestionably an exercise in extreme tolerance — for my remarks in past years have not always commanded universal acclaim among the lawyers of Maryland. But no more this year than last do I come before you to engage in a spree of popular rhetoric; in other words, to tell you what I think you may want to hear. So with that brief introduction, let me turn first to a basic and fundamental matter of common interest to judges and lawyers alike, namely, the administration of the state court system — a subject with broad impact on the professional and economic well-being of all lawyers — a subject of equally vital concern to the public at large, which holds a mighty stake in what we lawyers and judges do and how well we do it.

As a body, this Association has always been most supportive of the Maryland Judiciary and of our state court system, for which judges throughout our state are most appreciative. It is nevertheless true that **all too many Maryland lawyers, members of this Association and otherwise, fail to appreciate the need — the dire necessity — for their cooperation in order to make the judicial system work effectively.** They all too frequently take an "us and them" attitude with regard to judges and the courts and demonstrate at best token concern over the devastating negative impact on the public image of the judicial system which results from operational shortcomings — deficiencies accountable, in part at least, to the work habits of some lawyers and the myopic view they take of their professional responsibilities vis-a-vis their obligations to the courts and to the public.

Permit me to be a bit more specific. We now have a total of 196 judges on our trial and appellate benches in Maryland; that complement will increase to 203 judges on July 1, 1979, the legislature having authorized seven additional circuit court judges at its just-concluded legislative session. The amount of business coming before the courts is enormous indeed, and to handle it properly, there must be a sure-fire system which works with reasonable efficiency — a system to which all must adjust and adhere. Well before I became Chief Judge of the Court of Appeals, the Maryland Rules contained detailed provisions respecting the administration of the court system. Then, as now, the rules fixed responsibility for the day-to-day operational management of the trial courts in a network of administrative judges who were required, among a multitude of other su-

pervisory duties, to establish efficient case scheduling systems to assure the prompt and certain disposition of litigation. These rules heralded an end to the then prevalent philosophy that trial calendar control was no business of the judges — that cases should be brought to trial only if and when the lawyers were ready. The court administration rules adopted by the Court of Appeals, together with the later rules and statutory provisions governing the operation of the District Court of Maryland, were devised to assure that the court system would work with maximum efficiency. The rules called for controls over the length of judicial vacations; required management reports; mandated the equalization of judicial caseloads and the judicious use of judicial manpower throughout the state; made provision for the enforcement of judicial policies and rules; and called for the creation of committees of judges to confront and resolve court problems. In a nutshell, the rules decreed effective systemization and responsibility-fixing for the management of the courts. Underlying it all was the crying need to eliminate excessive delay in the ultimate disposition of cases. Such a system cannot possibly work if it accommodates lawyers who fail to plan their work schedules in advance, and contrive excuses for last-minute trial continuances. Nor can such a system work if it accommodates the lawyer who knowingly develops conflicts in his case assignments to advance his own economic interest, without regard to the ensuing detriment or expense to others.

Administrative judges William McCullough and David Cahoon recently attended a national seminar in St. Louis on the topic of reducing trial court delay. In commenting on the consensus reached at that seminar, Judge McCullough said that delay in the trial of cases is attributable in some part to "local legal culture," which means that "it is the way it is because everybody concerned wants it that way." **Court delay, it was agreed, could only be reduced by judges who were willing to insist that attorneys meet reasonable deadlines for the conclusion of pretrial activities and by trial setting and continuance practices that create an expectation of an early and relatively firm commencement of trial.** Judge McCullough indicated that it was the sense of the seminar that cases should be continued for extraordinary cause only; that to change the local legal culture it is absolutely essential to obtain the cooperation of trial attorneys and convince them that a strict continuance policy is to their benefit. Not to subscribe to that philosophy would, in my opinion, be a fatal error — one that we cannot afford to make in Maryland.

It should be of interest to you in this regard that rigid timetables have now been established by law for trial of criminal cases in the federal and state courts, and lawyers with criminal practices must plan on giving the first priority to trial of these cases. The federal Speedy Trial Act requires, as of July 1, 1979, that cases be tried within 60 days following arraignment. This requirement cannot be waived by the defendant or by agreement of counsel and the government's failure to bring the case to trial within the 60-day time frame will result in dismissal of the charges. While there is a provision in the Act permitting the trial judge to grant a continuance, his discretion to do so is very limited; indeed, it is so restrictive that the Federal-State Judicial Council of Maryland, of which I am a member with other state and federal judges, has petitioned the Congress to amend the law to permit greater flexibility in the granting of continuances. Similarly, under Maryland Rule 746, trial of state criminal charges in the circuit courts and the Criminal Court of Baltimore must be held within 120 days after the earlier of the appearance of counsel or the first appearance of the defendant before the court. The rule provides that continuances will be granted only for "extraordinary cause." Needless to say, the priority given to the trial of criminal cases before the state and federal courts impacts severely on the flexibility permissible in scheduling civil cases for trial and is but one more complexity built into the trial assignment system with which we all must learn to cope.

I am, of course, conscious of the criticism that courts are becoming overly systematized; that judicial independence is being infringed; that judges are being regimented, their individuality compromised; that they are subject to undue bureaucratic intrusions into their daily operations, required to fill out odious and meaningless reports and to read too many trite memorandums emanating from the Administrative Office in Annapolis. Not only is this criticism, in my judgment, not well founded, but it badly distorts and exaggerates the real picture of what we are attempting to do in the interest of judicial-branch efficiency. I remember all too well, as I am sure many of you do, the time when we could afford the luxury of having virtually no system at all, but these were times less complex and demanding than those which now confront us. My regard for the judges of Maryland is far too high to subject them to any of the suggested abuses, and indeed were there truth in the criticism, the judges would not tolerate it for so much as a minute.

Turning now to other matters, while the legislature has done much over the years to assist the judiciary in its operations, we are simply unable to convince that body of the compelling necessity to consolidate the six courts comprising the Supreme Bench of Baltimore into a single court, to be named

the Circuit Court of Baltimore, with one rather than six elected clerks. The work done on behalf of the consolidation bills this year, particularly by this Association, augurs well for the 1980 session, and I am actually optimistic that the political concerns which plague this legislation will be resolved and that the measure will be placed before the people for approval on the 1980 election ballot. I am not so optimistic that the legislature will propose a constitutional amendment in 1980 to abolish contested elections for circuit court judges, as this Association and the Maryland Judicial Conference has repeatedly urged. We took a bigger drubbing on that bill this year than usual, and we may be well advised to thoroughly test the waters before urging its reintroduction in 1980.

Equally distressing is our inability to convince the legislature to repeal a statute which prohibits the imposition of greater punishment on de novo appeals from the District Court to the circuit courts. Nor can we convince that body of the pressing need to eliminate the existing right to a jury trial in petty offenses, including traffic offenses, which come before the circuit courts from the District Court. All across the state the holding of jury trials in such cases is playing havoc with trial assignments and causing a docket backup of aggravating proportions, not to mention the great public expense associated with impanelling a jury to hear a citizen emote at length over a motor vehicle charge, for example, of spinning his wheels.

In a related matter, the courts are experiencing an avalanche of jury trial prayers in misdemeanor cases originating in the District Court — not because the defendant really wants a jury trial — but for one of eleven other reasons that we can identify, each of them entirely divorced from the jury trial demand. It may shock you to know that in one month in early 1979, in Baltimore City alone, 1700 prayers for jury trials were filed in the District Court, requiring that all such cases be tried in the Criminal Court of Baltimore. In the first four months of 1979, a total of 5396 new misdemeanor cases, involving 2307 defendants, were transferred from the District Court to the Criminal Court of Baltimore — an increase over the previous year of 55% in jury trials prayed and a 40% increase in de novo appeals. These cases now comprise over 50% of the total pending caseload of the Criminal Court of Baltimore — an alarming statistic indeed. **The trial of these petty cases in our courts of general jurisdiction saps much of the system's energy and resources, seriously inhibits our ability to try civil cases, and is beginning to adversely affect dockets in many of the counties of the state.** Corrective legislation is desperately needed to resolve the problem.

You will recall a few years ago that this Association was anxious to initiate a pilot Family Court project which would consolidate total jurisdiction re-

lating to family matters within one court so that all cases affecting juveniles, parents, spouses and the family entity would be tried in that tribunal. The Maryland Judicial Conference supported the concept in principle, and a federal grant was obtained to undertake the project in the Circuit Court for Prince George's County, the judges of that court being most enthusiastic in their support.

You should know that that court, after two years of operation, has now concluded not to seek further federal funding for the project's continuation, not because the Family Court concept cannot be made to work, but because it requires greater resources, a more elaborate administrative structure, more professional personnel, and more computer resources, than are available for this purpose or likely to be made available when federal funding ceases.

Last year, I spoke to you of the need to streamline and speed up the attorney disciplinary process and to reduce the then excessive delay between complaint and investigation and the ultimate disposition of the case. I am happy to report that through a combination of amendments to the BV Rules and strict managerial supervision by the Attorney Grievance Commission, the picture is much, much brighter. Cases are now proceeding with expedition through inquiry panels to the Review Board and then promptly to the single-judge court now provided for under the rules and thereafter with dispatch to the Court of Appeals.

It has now been over four years since the new BV Rules were adopted and since the initial members of the Attorney Grievance Commission were appointed under the chairmanship of George Solter of Baltimore. That the system has worked so well is a great tribute to this Association's vision, to the skill and devotion of the members of the Commission, and to the hard-working office of Bar Counsel, Holly Pittman, and his dedicated staff.

Effective June 30, 1979, the terms of George Solter and Commission members, Jim Cromwell of Montgomery County, and R. Taylor McClean of Baltimore County, will expire. Their counsel will be sorely missed — it is like losing an entire trio of irreplaceable linebackers at one time. A very special word of thanks is due to Chairman Solter for his superb leadership and enduring contributions to our profession. The new Chairman of the Commission will be Bill Beckett of Prince George's County, one of the original members, who has been truly outstanding in all that he has done to make the system work so effectively.

At a recent meeting with the Commission, the Court approved the addition of another full-time lawyer to Bar Counsel's staff, making five in all. The Commission's budget is now in excess of one-quarter of a million dollars and the assessment will be slightly increased this year to meet rising costs of operation.

The Client's Security Trust Fund, under the chairmanship of Charles Fisher of Westminster, continues to function with maximum efficiency, the complexity of its responsibility heightened somewhat by the recent decision of the Court of Appeals in the Folly Farms case. The Board of Law Examiners, under the chairmanship of retired Judge Jerrold V. Powers, now has seven members and the Court could not be more pleased with the Board's work. Among other things, it has reduced the time from examination to marking, and hence to actual admission to the bar by a full month and promises to further reduce this time differential. You will understand why I cried for a full month when Jerry Powers was required by age to retire from the Court of Special Appeals.

The Character Committees continue to function smoothly, and the Rules Committee, as always, is diligently pursuing its stewardship of the Maryland Rules. Of particular interest to you, **the Rules Committee is roughly two or so years away from completing its most ambitious project — the complete reorganization of the Maryland Rules into six Titles** — a structural achievement that ranks with the great Wall of China. Also of great importance, the Rules Committee will shortly recommend to the Court that all local circuit court rules be rescinded and replaced, where appropriate, by those formerly local rules which deserve statewide adoption.

Turning to another matter — the illegal practice of law — I point out to you that under a presently existing Maryland statute, as interpreted by the Attorney General, a lawyer licensed in another state, but not in Maryland, cannot lawfully be designated as a practitioner on the letterhead of a Maryland firm, by adding the notation that that lawyer is admitted to practice in another jurisdiction. The statute carries a criminal penalty and this Association is urged to consider the matter, suggest changes in the law, or demand obedience to its letter. Also of concern is the matter of paralegals and whether guidelines should be delineated to assure that these valuable employees are not permitted to engage in the actual practice of law in connection with some of the duties assigned to them.

Should we abolish the existing requirement that persons taking the Maryland Bar Examination be domiciled in Maryland at the time they take the examination? The matter will be the subject of a public hearing before the Court of Appeals in September or October, and this Association will be requested to appear and take a position.

Should the Court of Appeals amend its existing rules and permit television cameras in the courtrooms of this state — a practice which is beginning to sweep through the courts of this country, at least on an experimental basis? In view of the public awareness campaigns mounted by this Association and the judiciary in an effort to educate the public

with respect to our legal system, does it make sense to permit the filming of actual court proceedings for educational use in the public schools or for non-commercial public television documentaries? Responsible requests along these lines are now being received, accompanied by consents thereto by litigating parties, their attorneys, and the trial judge.

Let me conclude by touching lightly on a few other areas of interest to you. A committee of the Maryland Judicial Conference, under the chairmanship of Judge Marshall A. Levin of Baltimore, is undertaking to develop criminal sentencing guidelines as a means to eliminate unjustified disparities in criminal sentences. The project has been approved in principle by the Maryland Judicial Conference, and we anticipate substantial funding through a federal grant, with the pilot project being instituted in Baltimore City, Harford, Montgomery, and Prince George's Counties.

You should also know that the Department of Fiscal Services, through the Legislative Auditor's Office, has demanded that funds of the Attorney Grievance Commission and The Clients' Security Trust Fund — funds contributed by the lawyers of Maryland — be deposited in the state treasury and held as general funds of the state, on the ground that these are state agencies. In a rare display of total unanimity, the Court of Appeals has vowed that no such transfer will be permitted to occur.

You should know that **70 percent of the bench time of the judges of the District Court is devoted to criminal and civil cases, other than traffic, and that the judges are ready, willing and able to take on additional jurisdiction to relieve docket congestion in the circuit courts.** You should know that we are recalling retired judges to judicial service with increasing frequency to meet emergency problems. You should also know that in parts of Western Maryland, Southern Maryland, the Eastern Shore, and in Prince George's County, there is a standing cross-designation of District and Circuit judges to

accommodate the judicial business in those areas, and that from all accounts the lawyers are enthusiastic over the flexibility which it permits in operating the courts.

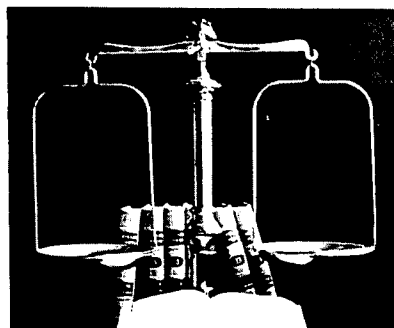
You should also know that promising projects are underway to develop a workable computer-aided transcription system — a system which when fully implemented will put an end to the problem of delay in timely transcript preparation. And you should know that the Administrative Office of the Courts is about to initiate new elections for lawyer members of the various judicial nominating commissions for terms paralleling that of the Governor.

Also of interest to you is that the Court of Appeals has approved the addition of lay members to the Attorney Grievance Commission and the Clients' Security Trust Fund, and has asked this Association to take a position on whether lay persons should be added to inquiry panels and the Review Board.

Finally, let me express my appreciation on behalf of all the judges of the state for this Association's continuing support for judicial salary increases. More than any other factor, present salary levels are causing low morale and a sense of frustration among all judges, particularly in view of the high salaries being paid to fledgling new lawyers just coming to the bar. **Beyond any question, our ability to attract to the bench the best the bar has to offer is seriously compromised by the relatively low salaries now being paid to judges.**

This year marks the thirtieth year of judicial service of my colleague, J. Dudley Digges, a former President of this Association. The Maryland Judiciary would like to pay public tribute to Judge Digges on reaching this extraordinary milestone in his most distinguished judicial career. It is no secret to anyone in this room that the ability and integrity of this extraordinary jurist is nowhere surpassed by any judge in the nation.

Your kind invitation to speak to you today is deeply appreciated.



1979 Legislation Affecting the Courts

At each session of the General Assembly, a large amount of legislation is considered that affects the courts in one way or another. Space limitations make it impossible to discuss all of these bills in this Report. Discussed below are a few of the more important items. A more detailed summary of 1979 legislation is available through the Administrative Office of the Courts.

Before summarizing bills that were enacted, a few moments should be devoted to discussion of bills that failed. That is because these bills include some of the more important legislative proposals from the point of view of court structure, organization, and administration, and a number of them have been introduced but rejected in several prior sessions. Many of these bills were proposed by the Judicial Conference, and their regular rejection by the General Assembly suggests a basis for some concern about legislative disregard for measures that the judiciary believes important for its own operations.

For example, SB's 980, 1039, 1040, and 1041, with House companions, were a package of administration bills, also supported by the Judicial Conference, the Maryland State Bar Association, and the Bar Association of Baltimore City, to consolidate the six courts of the Supreme Bench of Baltimore City. Similar legislation was rejected in 1976 and 1977. Once again, these bills failed. Once again, no objections were raised to the administrative desirability of such legislation; rather, opposition was based on concerns relating to political patronage and hiring practices. The administration, however, has not given up on this concept and it is hoped that new legislation may be introduced in 1980.

SB 1061 and HB 1791 were also administration bills, designed to provide for circuit court/Supreme Bench judges the same method of selection and retention that now exists for appellate court judges. SB 1061 was given a favorable report by Judicial Proceedings, but referred back to the committee on second reading. HB 1791 was killed by the House Judiciary Committee. These bills also had Conference and Bar Association support, but the lack of enthusiasm in the House seems to auger ill for future prospects.

Other bills supported by the Conference and designed to improve the ability of the courts to handle workload were SB 203/HB 1641 (notice to tenant prior to filing eviction action); SB 614/HB 1376 (decriminalization of nonsupport); SB 350/HB 543 (limitation of common law right to jury trial); SB 325/HB 544 (permitting increased sentence following de novo appeal); SB 215/HB 279 (District Court judges

to have same probation powers as circuit court judges); SB 326/HB 887 (procedure for application for leave to appeal following guilty plea in circuit court); and SB 284/HB 1533 (placement of certain Article 27, §641 dispositions in MVA computer). These measures had all been proposed previously. Some of them enjoyed a degree of success in one House or another, but none of them survived the full legislative process.

Bills Enacted. (An asterisk (*) denotes a bill proposed or supported by the Maryland Judicial Conference, one of its committees, or some other unit within the judicial branch of government).

1. *Court Organization and Structure.* *Chapter 480 created seven additional circuit court judgeships according to a certification of needs submitted by the Chief Judge of the Court of Appeals. Two of these judgeships are in Anne Arundel County, and one each in Baltimore City and Charles, Montgomery, Prince George's, and Worcester Counties.

*Chapter 525 made permanent the placement of the staff of the Baltimore City Juvenile Court in the Administrative Office of the Courts.

2. *Court Administration.* Chapter 58 established juror compensation as expense money in Garrett County and Chapter 73 did the same in Somerset County. Juror compensation is now treated as expense money in 23 of Maryland's subdivisions.

Chapter 376 provides that an attorney entering his appearance in a court proceeding may be granted a continuance if: 1) his appearance was entered in good faith and not for delay; 2) the case has not previously been continued an unreasonable number of times; and 3) when the appearance is entered, the attorney is already an attorney of record in another court proceeding previously scheduled for the conflicting time. Note that the granting of the continuance is still discretionary with the judge. This bill should be considered in the light of the Chief Judge's Administrative Order appearing in 5:12 Md. R. 961 (6/16/78).

*Chapter 543 provides that if a criminal or motor vehicle appeal results in any disposition other than acquittal, nolle pros, or stet, (as to which see Rule 1311) the circuit court cost, including the \$50 filing fee paid under Rule 1311, is retained by the circuit court. Other costs (the District Court costs) are returned to the District Court.

Chapter 556 requires a court to report to the Board of Pharmacy certain convictions of pharmacists.

*Chapter 633 simplifies criminal justice informa-

tion system procedures by excluding from the reporting requirements many convictions under public local laws.

3. *Civil Law and Procedure.* Chapter 31 gives the District Court jurisdiction over civil infractions resulting from alleged violations of the Used Oil Recycling Act.

Chapter 118 provides that in certain landlord/tenant cases, service by posting and mailing is sufficient to support a judgment for costs, but not for rent due.

Chapter 576 makes admissible in evidence a true copy of a public record of an agency of any State, a political subdivision of any State, or an agency of a political subdivision of any State, if certified by the custodian and if otherwise relevant and material.

Chapter 638 gives the circuit courts the same power as the District Court, in landlord/tenant cases, with respect to ordering rent money paid into escrow, referring cases to administrative agencies, etc.

4. *Juvenile and Family Law and Procedure.* *Chapter 257 clarifies the question of juvenile court jurisdiction in certain motor vehicle and boating cases.

Chapter 295 clarifies certain aspects of the disposition of Marital Property Act.

Chapter 558 deprives the juvenile court of original jurisdiction over a child 16 years old or older charged with attempted robbery with a deadly weapon.

5. *Criminal Law and Procedure.* *Chapter 385 provides procedures for establishment on a State-wide basis of local community service programs to which both juvenile and criminal defendants may be assigned as a condition of probation, as a condition of a suspended sentence, or in lieu of fine and court costs.

Chapter 521 relates to consideration of additional mitigating circumstances in capital punish-

ment cases; see *Lockett v. Ohio*, 98 S. Ct. 2954 (1978).

*Chapter 687 clarifies some matters pertaining to the theft law revisions made by the 1978 General Assembly.

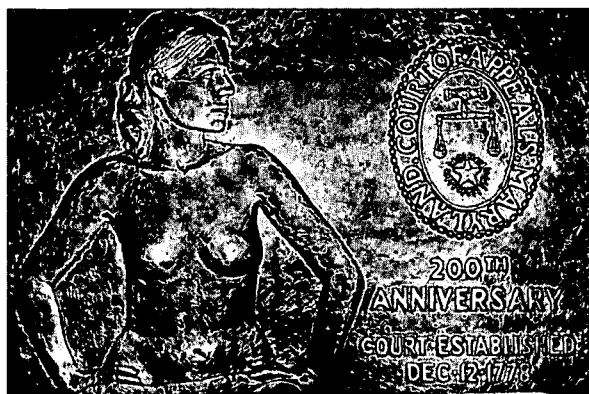
Chapter 701 provides new and detailed procedures to be followed in connection with the defense of insanity and disposition following the successful assertion of this defense. In this connection, interested persons should keep in mind the Supreme Court decision in *Addington v. Texas*, No. 77-5992 (4/30/79) and the Fourth Circuit decision in *Dorsey v. Solomon*, No. 78-1667 (7/25/79).

*Chapter 711 makes it clear that in criminal cases the District Court has the same power as circuit courts with respect to civil commitment of alcoholics and addicts.

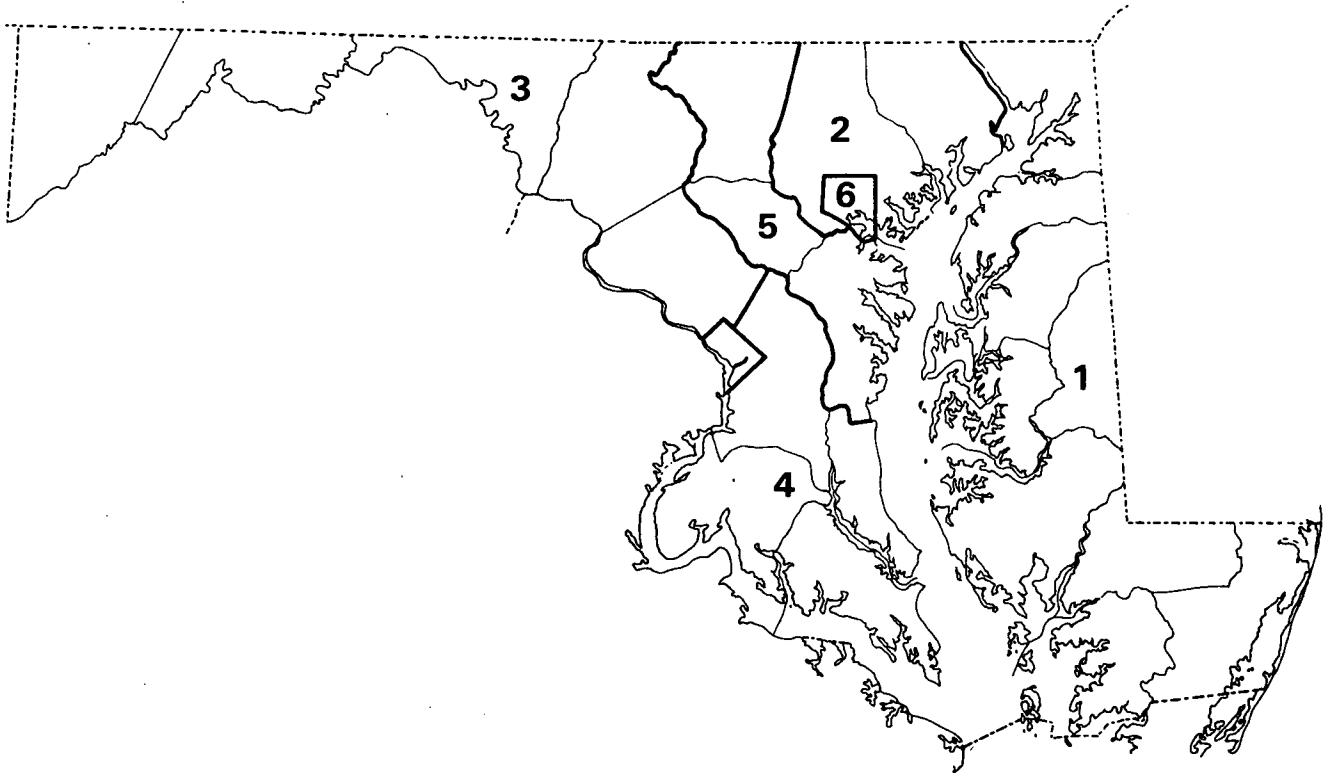
Chapter 724 deals with evaluation of defendants who claim insanity at the time of the offense or incompetent to stand trial and who remain in custody pending examination. It requires that such a defendant be held in prison until the Department of Health and Mental Hygiene can conduct an evaluation. When that time comes, the defendant is to be transferred to the evaluation facilities by an agency of the court. When evaluation is completed, the defendant is to be returned to the custodial facility by an agency of the court.

6. *Miscellaneous.* Chapters 23 and 24 are identical bills adopting a new pension system for State employees and others who become employees after December 31, 1979. Employees who are members of the present system may also elect to switch to the new system. The Acts do not have any substantive effect on the judges' pension system.

Chapter 513 enacts a Maryland Public Ethics Law affecting certain members of all three branches of State government as well as certain local public employees.



Judicial Maps and Members of the Judiciary



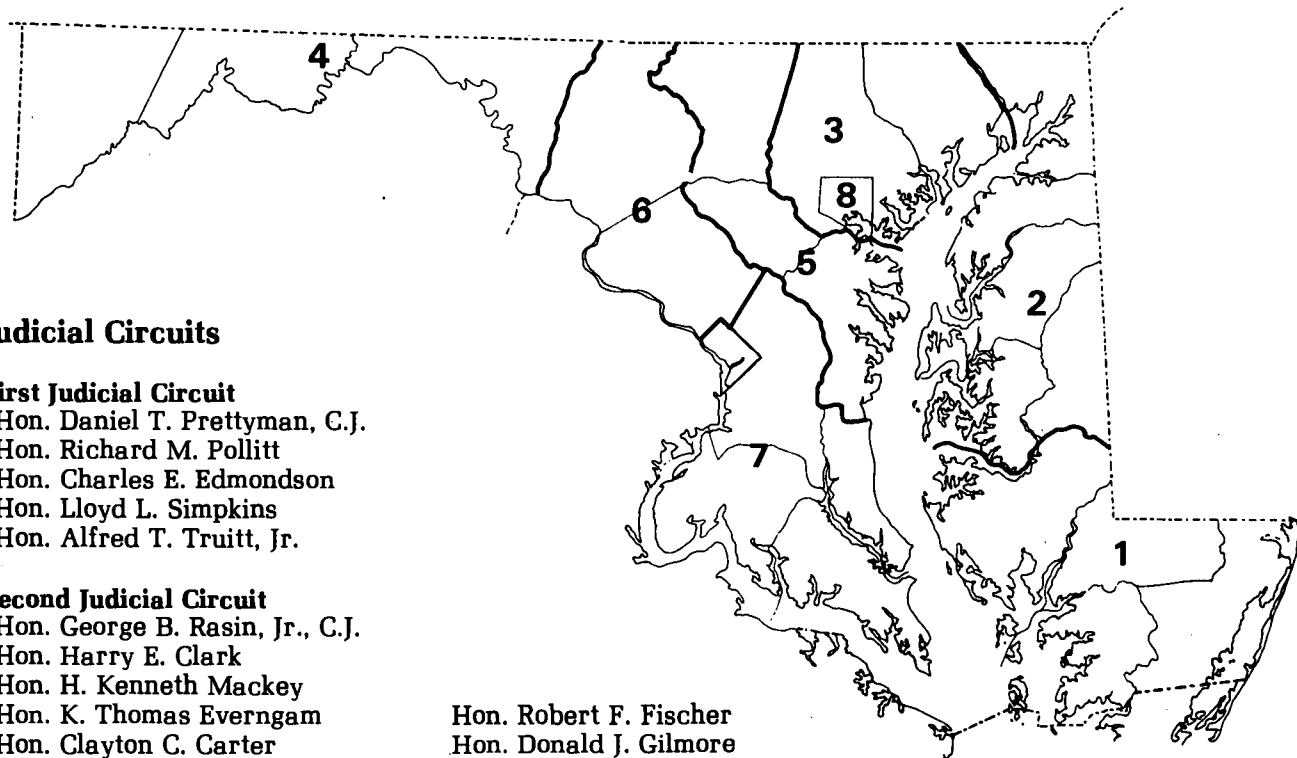
Appellate Judicial Circuits

Court of Appeals

Hon. Robert C. Murphy, C.J. (2)
 Hon. Marvin H. Smith (1)
 Hon. J. Dudley Digges (4)
 Hon. John C. Eldridge (5)
 Hon. Charles E. Orth, Jr. (6)
 Hon. Harry A. Cole (6)
 Hon. Rita C. Davidson (3)

Court of Special Appeals

Hon. Richard P. Gilbert, C.J. (6)
 Hon. James C. Morton, Jr. (5)
 Hon. Charles Awdry Thompson (1)
 Hon. Charles E. Moylan, Jr. (At Large)
 Hon. John P. Moore (3)
 Hon. Thomas Hunter Lowe (At Large)
 Hon. Ridgely P. Melvin, Jr. (At Large)
 Hon. David T. Mason (At Large)
 Hon. Solomon Liss (6)
 Hon. Alan M. Wilner (At Large)
 Hon. James F. Couch, Jr. (4)
 Hon. H. Kemp MacDaniel (2)
 Hon. Edward O. Weant, Jr. (At Large)



Judicial Circuits

First Judicial Circuit

Hon. Daniel T. Prettyman, C.J.
 *Hon. Richard M. Pollitt
 Hon. Charles E. Edmondson
 Hon. Lloyd L. Simpkins
 Hon. Alfred T. Truitt, Jr.

Second Judicial Circuit

*Hon. George B. Rasin, Jr., C.J.
 Hon. Harry E. Clark
 Hon. H. Kenneth Mackey
 Hon. K. Thomas Everngam
 Hon. Clayton C. Carter
 Hon. William B. Evans

Third Judicial Circuit

Hon. John E. Raine, Jr., C.J.
 Hon. John N. Maguire
 Hon. Walter R. Haile
 Hon. Albert P. Close
 *Hon. Frank E. Cicone
 Hon. Edward D. Higinbotham
 Hon. Marvin J. Land
 Hon. Edward A. DeWaters, Jr.
 Hon. William R. Buchanan
 Hon. Brodnax Cameron, Jr.
 Hon. Paul E. Alpert
 Hon. Cullen H. Hormes
 Hon. Austin W. Brizendine, Sr.

Fourth Judicial Circuit

Hon. Harold E. Naughton, C.J.
 *Hon. James S. Getty
 Hon. Frederick A. Thayer, III
 Hon. John P. Corderman
 Hon. Frederick C. Wright, III

Fifth Judicial Circuit

Hon. James Macgill, C.J.
 *Hon. E. Mackall Childs
 Hon. James L. Wray
 Hon. Morris Turk
 Hon. Nathaniel W. Hopper
 Hon. Guy J. Cicone
 Hon. Bruce C. Williams
 Hon. Raymond G. Thieme, Jr.

Hon. Robert F. Fischer
 Hon. Donald J. Gilmore
 Hon. H. Chester Goudy, Jr.
 Hon. Luke K. Burns, Jr.

Sixth Judicial Circuit

Hon. Robert E. Clapp, Jr., C.J.
 *Hon. Joseph M. Mathias
 Hon. Plummer M. Shearin
 Hon. Samuel W. Barrick
 Hon. H. Ralph Miller
 Hon. David L. Cahoon
 Hon. John F. McAuliffe
 Hon. Philip M. Fairbanks
 Hon. John J. Mitchell
 Hon. Richard B. Latham
 Hon. Stanley B. Frosh
 Hon. William M. Cave

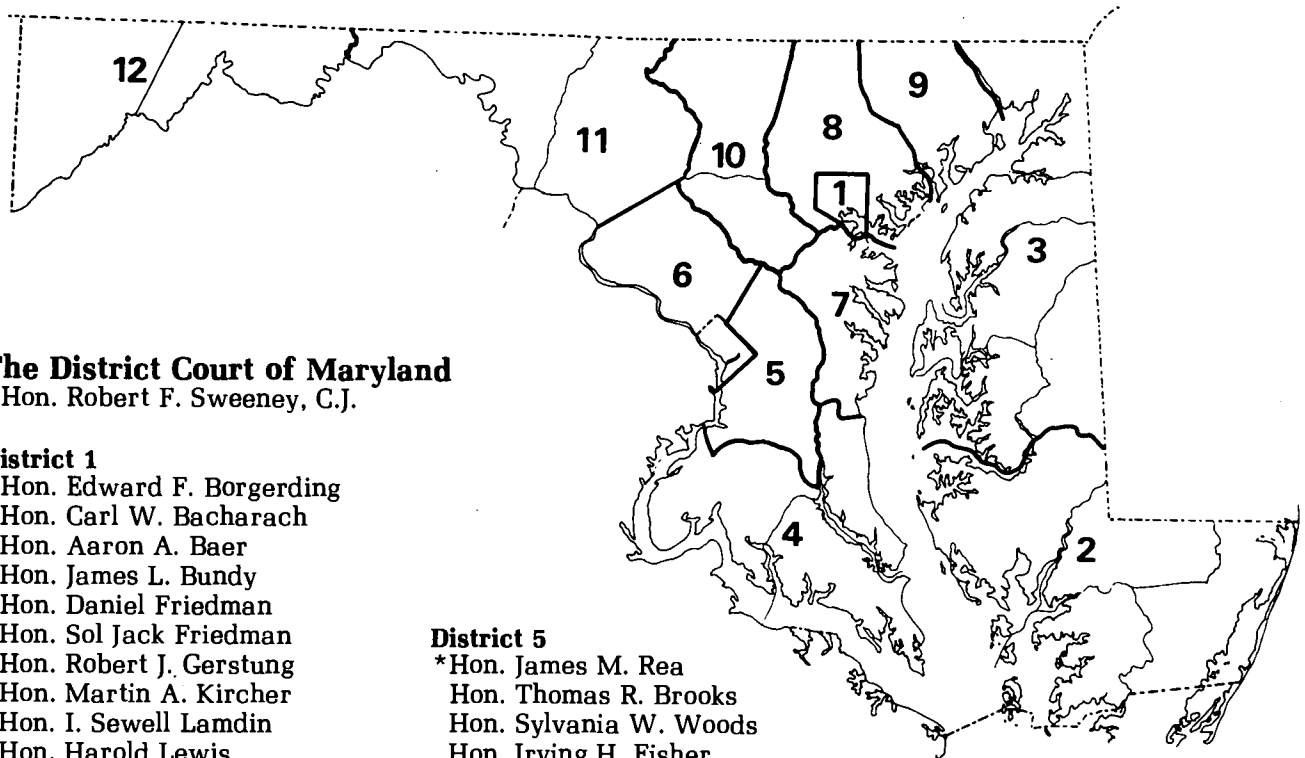
Seventh Judicial Circuit

*Hon. Ernest A. Loveless, Jr., C.J.
 Hon. Perry G. Bowen, Jr.
 Hon. Samuel W.H. Meloy
 Hon. William H. McCullough
 Hon. James H. Taylor
 Hon. Joseph A. Mattingly
 Hon. Jacob S. Levin
 Hon. George W. Bowling
 Hon. Albert T. Blackwell, Jr.
 Hon. Robert J. Woods
 Hon. Howard S. Chasanow
 Hon. Vincent J. Femia
 Hon. Robert H. Mason
 Hon. Audrey E. Melbourne
 Hon. David Gray Ross

Eighth Judicial Circuit

Hon. Anselm Sodaro, C.J.
 Hon. J. Harold Grady
 Hon. Albert L. Sklar
 Hon. James A. Perrott
 Hon. Robert I.H. Hammerman
 Hon. David Ross
 Hon. Paul A. Dorf
 Hon. Basil A. Thomas
 Hon. Robert B. Watts
 Hon. James W. Murphy
 Hon. Marshall A. Levin
 *Hon. Robert L. Karwacki
 Hon. John R. Hargrove
 Hon. Mary Arabian
 Hon. Martin B. Greenfeld
 Hon. Milton B. Allen
 Hon. Joseph H.H. Kaplan
 Hon. Edgar P. Silver
 Hon. Solomon Baylor
 Hon. Elsbeth Levy Bothe

*Circuit Administrative Judge



The District Court of Maryland

Hon. Robert F. Sweeney, C.J.

District 1

*Hon. Edward F. Borgerding
 Hon. Carl W. Bacharach
 Hon. Aaron A. Baer
 Hon. James L. Bundy
 Hon. Daniel Friedman
 Hon. Sol Jack Friedman
 Hon. Robert J. Gerstung
 Hon. Martin A. Kircher
 Hon. I. Sewell Lamdin
 Hon. Harold Lewis
 Hon. Vern J. Munger, Jr.
 Hon. William H. Murphy, Sr.
 Hon. Alan M. Resnick
 Hon. Jerome Robinson
 Hon. Henry W. Stichel, Jr.
 Hon. James J. Welsh, Jr.
 Hon. Robert M. Bell
 Hon. Joseph A. Ciotola
 Hon. Hilary D. Caplan
 Hon. Allen B. Spector
 Hon. Blanche G. Wahl
 Hon. Richard O. Motsay

District 2

*Hon. Edward O. Thomas
 Hon. William B. Yates, II
 Hon. Robert D. Horsey
 Hon. D. William Simpson

District 3

*Hon. Kenneth A. Wilcox
 Hon. Walter E. Buck, Jr.
 Hon. William Dunbar Gould
 Hon. John C. North, II
 Hon. L. Edgar Brown
 Hon. John T. Clark, III

District 4

*Hon. William O.E. Sterling
 Hon. Richard J. Clark
 Hon. Larry D. Lamson

District 5

*Hon. James M. Rea
 Hon. Thomas R. Brooks
 Hon. Sylvania W. Woods
 Hon. Irving H. Fisher
 Hon. Graydon McKee, III
 Hon. Francis A. Borelli
 Hon. Bond L. Holford
 Hon. Louis J. Ditrani
 Hon. Bess B. Lavine

District 6

*Hon. Calvin R. Sanders
 Hon. L. Leonard Ruben
 Hon. Douglas H. Moore, Jr.
 Hon. John C. Tracey
 Hon. Charles W. Woodward, Jr.
 Hon. Stanley Klavan
 Hon. Martin S. Becker
 Hon. Rosalyn B. Bell
 Hon. James S. McAuliffe, Jr.

District 7

*Hon. Thomas J. Curley
 Hon. Robert S. Heise
 Hon. Vernon L. Neilson
 Hon. George M. Taylor
 Hon. Martin A. Wolff
 Hon. Robert N. Lucke, Sr.

District 8

*Hon. William T. Evans
 Hon. J. William Hinkel
 Hon. Edward D. Hardesty
 Hon. James E. Kardash
 Hon. Werner G. Schoeler

Hon. David N. Bates
 Hon. Gerard W. Wittstadt
 Hon. John P. Rellas
 Hon. James S. Sfekas
 Hon. John F. Fader, II
 Hon. William S. Baldwin

District 9

*Hon. Charles J. Kelly
 Hon. Harry St. A. O'Neill
 Hon. Edwin H.W. Harlan, Jr.

District 10

*Hon. J. Thomas Nissel
 Hon. Raymond J. Kane, Jr.
 Hon. Donald M. Smith

District 11

*Hon. J. Louis Boublitz
 Hon. Stanley Y. Bennett
 Hon. William W. Wenner
 Hon. Daniel W. Moylan

District 12

*Hon. Lewis R. Jones
 Hon. Miller Bowen
 Hon. Milton Gerson

*District Administrative Judge



**Administrative Office of the Courts
Courts of Appeal Building
Annapolis, MD 21401
(301) 269-2141**